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George Purling.

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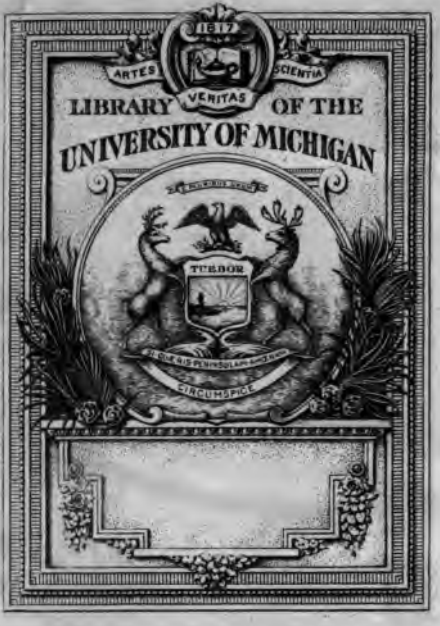

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THE

Parliamentary Regiſte

OR,

HISTORY

OF THE

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF LORD

CONTAINING AN ACCOUNT OF

The most intereſting SPEECHES, MOTIONS, PROTEST
PETITIONS, &c.

DURING THE

SECOND SESSION of the FOURTEENTH PARLIAM

OF

GREAT BRITAIN.

IN SEVENTEEN VOLUMES.

VOL. IV.

LONDON:
Reprinted for JOHN STOCKDALE, Piccadilly;
J. WALKER; R. LEA, & J. NUNN.

1802.

By T. Gillet, Salisbury-square.

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an infinite number of induſtrious manufacturers and mechanics entirely depends.

That his Majeſty having been graciouſly pleaſed, in anſwer to a late humble and dutiful addreſs and petition to the throne, praying a ceſſation of hoſtilities with America, for the purpoſe of obtaining time, and thereby giving an opportunity for a happy and laſting reconciliation with his Majeſty's American colonies, to declare, that he ſhould abide by the ſenſe of his Parliament, this court conceive it to be their indiſpenſible duty, thus early in the ſeſſion, in the moſt reſpectful manner, to apply to this right honourable Houſe, that it will be pleaſed to adopt ſuch meaſures for the healing of the preſent unhappy diſputes between the mother country and the colonies as may be ſpeedy, permanent, and honourable.

The petition was read, and ordered to lie upon the table.

The Lord *Chancellor* condemned the conduct of the noble Lord who preſented the petition; ſaid it had always been a rule in that Houſe, not to enter upon any buſineſs till the ſpeech from the throne had been taken into conſideration; it was a compliment uniformly paid and expected; but ſince the noble and learned Lord had departed from that rule, he ſhould beg leave to preſent a petition from his Majeſty's colony of Nova Scotia. His Lordſhip then preſented the petition, in his place. [*Another copy of the ſame petition having been preſented to the Houſe of Commons by the Speaker, it is printed in the account of the proceedings of that Houſe of this ſeſſion.*] It was read, and ordered to lie upon the table.

Lord Viſcount *Townſhend* moved, That an humble addreſs be preſented to his Majeſty, to expreſs, &c. His Lordſhip ſaid, it was extremely proper, in the preſent exigency of affairs, to take foreigners into our pay, and Iriſh papiſts into our ſervice. He ſaid papiſts might be as good ſoldiers as any other; that it was only in this country any diſtinction was made; that France, however rigorous, bigoted or deſpotic ſhe might be in other reſpects, made no difference between proteſtants and catholics; that the Hollanders acted in the ſame manner; that ſo men were good ſoldiers, it was very little matter what their creeds were. He touched ſlightly on the diſpoſition of the ſeveral powers of Europe; particularly that of the houſe of Bourbon, and the United Provinces: the laſt, to ſhew we had no obſtruction to fear in the execution of our deſigns reſpecting America; it being a ſtrong preſumptive proof that we had very little to fear from the other powers of Europe, when even a ſtate that almoſt exiſts by

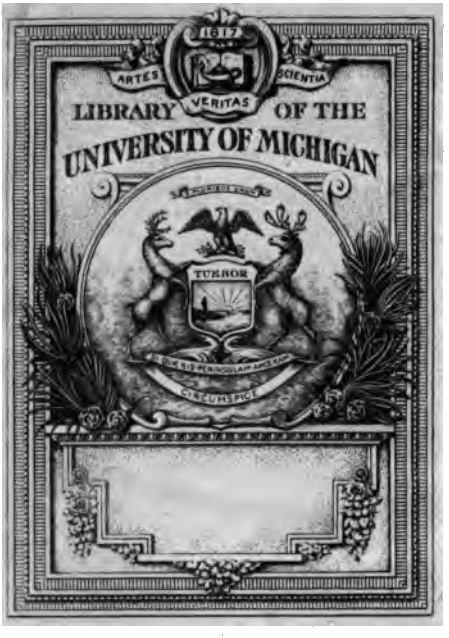
trade

trade and the univerſality of its commerce, had renounced all proſpect of advantage or emolument by trading with our colonies, having in the moſt ſolemn manner prohibited ſuch an intercourſe in the fulleſt operative and ſpecific terms.

Lord Viſcount *Dudley* ſeconded the motion. Having aſſerted the ſovereign authority of the Britiſh legiſlature over every part of the Britiſh dominions, his Lordſhip contended, that the preſent rebellion in America was fomented and ſupported by a deſperate faction in this country; that none but men of the worſt diſpoſitions, and moſt pernicious deſigns, would encourage the claims of America; and that as they had been wrong almoſt in every thing elſe, he was glad to find they had been miſtaken in their predictions relative to the diſtreſſes which the diſpute with America would bring upon this nation. He had the pleaſure of acquainting their Lordſhips, that he lived in the midſt of a manufacturing country, in the neighbourhood of Birmingham, Wolverhampton, &c. and he could affirm, from the beſt and moſt authentic information he had been able to collect upon the ſpot, that none of the direful effects, ſo often echoed thro' that Houſe, and which it had been ſaid would flow from the meaſures purſued by adminiſtration, and ſupported by Parliament, &c. had been yet, nor were likely to be felt.

The Marquis of *Rockingham*, after enumerating the conduct of the ſeveral adminiſtrations for ſome years paſt reſpecting America, condemned the ſpeech, which he called the ſpeech of the miniſter, in very pointed terms; and contended that the meaſures recommended from the throne were big with the moſt portentous and ruinous conſequences. His Lordſhip moved an amendment. [*The ſame that was moved by Lord John Cavendiſh in the Houſe of Commons; printed in the Commons debates of this ſeſſion.*]

The Earl of *Coventry* aſſerted the authority of the ſupreme legiſlature over the colonies, but condemned, in expreſs terms, the madneſs and abſurdity of expecting to reduce them by mere meaſures of coercion, ſo as to anſwer any one ſober or rational purpoſe of ſovereignty, commerce or finance. He told the noble Lords in office, that they had no alternative left, but either to relinquiſh all connection with the colonies, or to adopt conciliatory meaſures; the idea of conquering them was wild and extravagant, he ſaid, even in the event of victory; becauſe, if they ſhould be vanquiſhed, they would be worth nothing to the mother country; and would beſides call for ſuch a ſtanding military force to keep them in ſubjection, as we could never be able to



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THE HISTORY OF THE PROCEEDINGS AND DEBATES OF THE HOUSE OF LORDS,

During the SECOND SESSION of the

Fourteenth Parliament of *Great-Britain.*

THE ſeſſion was opened by his Majeſty, on Thurſday the 26th of October, 1775, with a ſpeech from the throne; which ſpeech having been already printed, in the debates and proceedings of the Houſe of Commons of this ſeſſion, it is unneceſſary to repeat it.

Before the motion was made for an addreſs, Lord *Camden* roſe, and preſented the following petition:

To the Right Honourable the Lords Spiritual and Temporal in Parliament aſſembled.

The humble Petition of the Lord Mayor, Aldermen, and Commons of the city of London, in Common Council aſſembled,

Sheweth,

That this court having taken into its moſt ſerious conſideration the preſent diſtreſſed ſituation of our fellow ſubjects in America, are exceedingly alarmed for the conſequences of thoſe coercive meaſures which are purſuing againſt them; meaſures that muſt, notwithſtanding the great uncertainty of their ſucceſs, eventually be productive of new and more burthenſome taxes, the increaſe of an enormous national debt; and finally, we fear, the loſs of the moſt valuable branch of our commerce, on which the exiſtence of

well to it! Though a young man, he remembered when this country was pretty much in ſuch a predicament as at preſent; and he remembered too, that that ſteady patriot and able politician reſcued it from the brink of deſtruction; and he was now fully convinced, its ſalvation, nay indeed its exiſtence, were only to be obtained and preſerved by the ſame means. His Lordſhip turned to the queſtion, and maintained the ſovereignty of the legiſlature in its fulleſt extent; but condemned in the moſt marked and expreſſive language, the conduct of adminiſtration. He ſaid, that they had totally failed in their promiſes and information, and were no longer to be truſted or ſupported with ſafety. He alluded to his conduct during laſt ſeſſion, when he voted with the miniſtry, how ſtrenuouſly he recommended vigorous meaſures, or none; and how frequently he preſſed them on his head. On the whole, therefore, he ſaid, though he could not vote for the amendment, becauſe the Americans were not declared to be in rebellion, he totally diſapproved of the addreſs, and the meaſures recommended in it. He ſaid matters were now entirely altered. Boſton was turned into an hoſpital, where more died of famine and want of care, than by the ſword. We probably had not a ſingle foot of land in our poſſeſſion on the continent of America. The expence and hazard of reducing it, the little dependence there was to be placed in men, who had been miſled themſelves, or purpoſely miſled others, operated ſo ſtrongly on his mind, that he could no longer lend his countenance and ſupport to ſuch meaſures, accompanied by ſuch circumſtances; and conſequently muſt unite in opinion with the noble Duke, in wiſhing that all the acts reſpecting America, paſſed ſince the year 1763, might be repealed, as a ground for conciliation, a full reſtoration of the public tranquillity, and return of America to her wonted obedience, and ſubordinate dependence on the mother country.

The Biſhop of *Peterborough* anſwered ſome reflections which dropt from Lord Sandwich on the obſtructions thrown in the way of adminiſtration, by declaring, that he was ſo far from having had any diſpoſition to clog and embarraſs the wheels of government, that he had given his vote laſt year for the meaſures of the miniſtry, upon the ground of the information he had received from reading the American correſpondence; his Lordſhip, however, reminded the Houſe, that, notwithſtanding the vote he then gave, he had expreſsly declared, that reconciliation laſt year * was the object he

* *Vide* Lords debates of laſt ſeſſion.

ever

ever had in view, and meant not to loſe ſight of. He hoped therefore, that the Lords would not impute it to a ſpirit of faction, if (as he thought the ſtate of things now very different from what they appeared then,) he ſhould be conſtrained to withold his conſent from the addreſs. My reaſons, he added, for ſo doing, I will ſimply, and as briefly as poſſible, lay before your Lordſhips.

It appeared to me, in the laſt ſeſſions, to be the general opinion of all ſuch as I thought beſt capable to form a judgment, what were the moſt probable means to effect a laſting re-union with the colonies, that even a ſhew of perſeverance to ſupport the authority of the legiſlature would intimidate the factious and reſtore peace and tranquillity. Experience has now convinced me that a miſtaken judgment upon this point was formed by the friends of adminiſtration, both here and in America. The declaration of perſeverance went forth, and though backed by 10,000 men, has not intimidated a ſingle colony.

We were aſſured laſt year, that upon the appearance of a reinforcement which could protect them from the inſults of the mob, a conſiderable party would declare themſelves in favour of the mother country; that there is no reaſon now to flatter ourſelves with ſuch an expectation (if there ever was any) is too obvious to be inſiſted upon. It was ſaid too, in the ſpring, that the Americans would not, ſome indeed were confidently perſuaded they could not, fight; yet we now certainly know that they can and will fight, for they have fought. It is true, they were defeated, but conſidering the ſtand they made, and the intrepidity of the troops they had to contend with, they were not diſgraced by their defeat.

We were made to believe, a year ago, that the reſtraints put upon the commerce and fiſheries of the colonies would preſs ſo hard upon their intereſts, as to bring them to ſubmiſſion. We have now learnt that their commerce is but a ſecondary conſideration: if it may not be called liberty itſelf, that they are contending for, it is at leaſt the opinion of liberty, which operates no leſs forcibly on the paſſions of mankind.

Having thus contraſted the paſt and preſent ſtate of American affairs, he ſaid, that he was perſuaded many Lords beſides himſelf had, on ſome or all of the grounds he mentioned, been induced to approve of the meaſures propoſed in the laſt ſeſſion; he owned they were meaſures of coercion and correction, which he then thought adviſeable, becauſe he believed they tended to effect peace and re-union. But, he added, it ſeems to me unfortunately for both countries, that

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we have loſt ſight of the end in the means. It is no longer a queſtion whether reconciliation is beſt brought about by conceſſion or force; but whether or no we ſhall engage in a ruinous and expenſive war, till one or both countries is ſacrificed to reſentment, on a barren point of honour.

I call the ſubject of our diſpute a barren point of honour, for I am perſuaded, there is ſcarce a man in this country, who thinks now that America, if ſubdued, will be brought to ſubmit to taxation. Be the right of the legiſlature what it may, ſuch as I have converſed with, hold the exerciſe of it not only inexpedient but impracticable.

Admit then, the point of honour eſtabliſhed by a ſeries of victories, it muſt ſtill remain a barren ſpeculative principle of pre-eminence, and all the advantage which can poſſibly be expected from it, can never be adequate to the expence of blood and treaſure that muſt neceſſarily be waſted in the fruitleſs acquiſition.

The noble Viſcount who has moved this addreſs, has been pleaſed to lay a great ſtreſs upon the aſſurances given by the courts of France and Spain. I am free to admit that nothing is to be apprehended from either of our rival powers, while our domeſtic diſputes continue. They muſt be bad politicians indeed, to hazard any thing for reducing our force, while they ſee us ſo eagerly doing their buſineſs at our own expence.

The other noble Viſcount who has ſeconded this addreſs, has acquainted your Lordſhips, that to his own perſonal knowledge, our great manufacturing towns feel no decline of trade from the interruption of the American commerce. They have, his Lordſhip ſays, as full employment, and as ample orders from their factors as ever. Be it ſo: what is it that the noble Lord can infer from this conceſſion, unleſs it is that our manufactures can do as well without the American trade as with it? Why then, I would aſk, are we ſacrificing the flower of our army, and burthening poſterity with an enormous debt; better ſurely will it be to cut off at once a limb that is of no uſe, than to hazard the mortification of the whole body, by endeavouring to preſerve it.

His Lordſhip proceeded then to give his opinion upon the uſe that might be made of the petition from the congreſs, as a ground of conciliation.

I am free to own, ſaid he, I conſider the petition as a refined piece of political ſubtlety; yet I plainly perceive from it, that there is either a difference of ſentiment among the leaders, or that the bulk of the people do not even now

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wiſh for a total ſeparation, whatever may be the object of ſome among the leaders who direct their councils.

It is evident that the petition is expreſſed in terms which, conſidering the circumſtances of the country, are more moderate and dutiful than could have been expected. Suppoſe then that this was calculated to gain the approbation of ſuch, as wiſhed ſtill for peace and conciliation. It is plain that ſome ſuch there ſtill are among them, and that their leaders thought it prudent to manage them, though they had addreſs enough to clog the whole with a title and ſubſcription which they meant ſhould render it inadmiſſible. Are your Lordſhips to be ſo impoſed upon; will you be for rejecting this petition altogether, or will you not find ſome means of admitting it, ſo as to defeat the purpoſes of thoſe who in their hearts are enemies of peace? I beg leave to remind the Houſe of a wiſe anſwer given lately by one of his Majeſty's governors to a petition of a provincial congreſs. I cannot (ſays Sir James Wright) look upon your meeting as conſtitutional, but as your petition is expreſſed in terms of duty and loyalty, and the ends propoſed are ſuch as every good man muſt wiſh to promote, I ſhall conſent.

To conclude, was there no other conſideration than the great importance of the queſtion, whereon not the commerce only, but in a great meaſure the very being of the Britiſh empire depends, it would juſtify delay, till all the light which can be collected is thrown upon the ſubject. The amendment propoſed by the noble Marquis ſeems directed principally to this end, and for that reaſon I ſhall give my conſent to it. Whatever vote your Lordſhips ſhall hereafter come to, weigh firſt the hazards of war, weigh the heavy expence of acquiring your object againſt its real value. I am too much pleaſed with the ſpirit of the noble Lord's [Lord Lyttleton] idea, who declares the Britiſh troops are invincible, to queſtion it. Caſt the ſword of victory then into the ſcale of honour. It will ſtill be found wanting.

The Earl of *Sandwich*, riſing to explain, was called to order; but inſiſting on his right to be heard, ſaid he had no intention to depreciate the character of the noble Earl, who he underſtood was prevented by illneſs from attending his duty in Parliament; that he never meant to ridicule him, and ſtill much leſs ſo in his abſence.

The Duke of *Grafton* roſe to explain, concerning ſomething which had furniſhed Lord Sandwich with an opportunity of ſuppoſing his Grace had paſſed ſome degree of cenſure on the naval operations carried on in America. Nothing, he aſſured

aſſured his Lordſhip and the Houſe, could be further from his intentions; for he had a very high eſteem for the gentlemen of the navy; and took a very peculiar pride in being immediately deſcended from one of the profeſſion.

The Earl of *Effingham*, after taking a ſhort review of the conduct of adminiſtration, turned his attention to the meaſures propoſed by them; and ſuppoſing that it ſhould be agreed to carry them into execution, aſked Lord Townſhend whether he thought 60,000 men would be ſufficient to recover America, and entirely ſubdue it?

Lord Viſcount *Townſhend* replied, it was a queſtion he could by no means undertake to anſwer; that he was acquainted only with that part in which he had acted himſelf; that there was a very able man [Sir Jeffery Amherſt] who, it was reported, would ſhortly be called up to a ſeat in that Houſe: This gentleman he ſaid had traverſed the principal communications of the northern parts of that continent; and he believed had been conſulted. He aſſured their Lordſhips, that for his own part, he had never been applied to in council or elſewhere; but if the queſtion had been put generally to him, whether ſuch a force was ſufficient for the purpoſe, he ſhould very fairly reply, from his general knowledge, and from all the lights he had been able to obtain from hiſtory, that he never knew an inſtance, where 60,000 men were in poſſeſſion of the poſts proper to be occupied, in which they had failed. [Several queſtions of a ſimilar nature were put to him; but his Lordſhip ſeemed willing to avoid giving any ſpecific anſwer.]

The Earl of *Dartmouth* ſaid, he was aſtoniſhed how any noble Lord could condemn adminiſtration, or withdraw his ſupport from them, without at leaſt giving them a fair trial; that it was never ſuppoſed, if America united, to reduce them would be the work of one ſummer; that the meaſures of laſt ſeſſion were calculated and directed to the ſafety and protection of the province of Maſſachuſet's-Bay entirely; that, as ſuch, they had been wiſely planned, and muſt have been ſucceſsful, if a variety of events, impoſſible to be foreſeen, or provided againſt, had not united to defeat them; ſuch, in particular, was the change of ſentiments in the people of New York, and the unexpected unanimity and unforeſeen meaſures adopted by the continental congreſs.

Lord *Groſvenor* ſaid, he was not uſed to ſpeaking. Politics were not in his way; but he thought the King's ſpeech was a good ſpeech, and as ſuch ought to be anſwered in the terms moved by the noble Lord.

The

The Duke of *Manchester*, after examining the true purport of the ſpeech, which he treated as the ſpeech of the miniſter, ſubmitted his reaſons for diſapproving of the addreſs, and for agreeing with the amendment. His Grace obſerved, that it had been the general language of the miniſtry, and many other noble Lords laſt ſeſſion, to impute all oppoſition to their meaſures to factious and ambitious motives. He was ſorry to hear the ſame language renewed this day; firſt, by the noble Viſcount who ſeconded the addreſs, and afterwards by the noble Earl at the head of the admiralty. His Grace ſolemnly proteſted, as long as he had the honour of a ſeat in that Houſe, he would never endure it. If the noble Lords who made the accuſations had grounds to juſtify what they ſaid, he called on them to bring them forward, or confeſs they had no authority for what they ſaid or inſinuated. If they are ſilent, then, ſays his Grace, I ſhall ſuppoſe they have none. The Houſe muſt ſuppoſe ſo, and as ſuch will not permit them to interrupt or diſturb that decorum and freedom of debate for which your Lordſhips have at all times been ſo juſtly diſtinguiſhed. [Mention was made, by ſome of the Lords in adminiſtration, of the ſeveral addreſſes, lately preſented to his Majeſty; that they contained the fulleſt approbation of the preſent meaſures, and muſt be preſumed were the voice and ſenſe of the nation.]

Lord *Craven* ſaid, the manner and the means employed to obtain theſe addreſſes are well known. He ſhould mention only that which was obtained in his own neighbourhood, which, he ſaid, was ſhamefully ſmuggled; no notice being previouſly given the citizens of Coventry. It was drawn up, he ſaid, by the mere agents and creatures of adminiſtration; nine tenths who ſigned it never heard a ſyllable of its contents; and yet, with all the arts uſed to deceive and miſlead, no more than 117, moſt of them ignorant of what they were doing, could be prevailed upon to ſign it; while the addreſs he intereſted himſelf in, and which carried truth to the foot of the throne, attended with all the previous forms which ſhould ever accompany declarations of this nature, where the ſentiments of the people ought to be faithfully collected and expreſſed, was ſigned by 406 names; and he could aſſure their Lordſhips, that in this number there was not one bought voice nor one pauper. From this inſtance, which came immediately within his own knowledge, he was led ſtrongly to ſuſpect, that moſt of the addreſſes now alluded to by the noble Lords were obtained in a ſimilar manner; and hoped therefore their Lordſhips would build

nothing

nothing on ſo weak and rotten, though ſpecious a foundation.

The Duke of *Richmond* reminded adminiſtration of the very predictions which they now owned were the cauſe of their miſcarriage, He told them that he, and many other Lords on the ſame ſide, had repeatedly preſſed them on their real or pretended want of information; that if they were in earneſt, their armaments, both by land and ſea, were too weak; and if they were not in earneſt, it was at once ſacrificing the blood, treaſure, commerce, and honour of this nation, to a moſt criminal luſt of place and emolument, ſuppoſing that bloody meaſures were the tenure by which they held their offices. His Grace obſerved, that the public papers had held out threats againſt ſome of the members of both Houſes, in order to ſtifle the freedom of debate; that he underſtood he was one of the perſons ſingled out and meant to be honoured on this occaſion; that he now called on his threateners and accuſers, and, ſtriking his hand on his heart, ſaid, If any ſuch be preſent, I will not pretend to ſay there are, I defy them; I ſcorn their menaces, and invite them to make good their charges. He did not ſuppoſe, he ſaid, that any noble Lords in adminiſtration would encourage or employ ſuch baſe, futile or ſcandalous means to intimidate the members in either Houſe of Parliament from doing their duty, though they were certain that ſuch a ſcheme would have the deſired effect. His Grace next turned his attention to what a noble Earl, early in the debate, had ſaid, reſpecting the cowardice of the Americans. He begged leave to remind his Lordſhip, that he did not ſpeak conditionally; there was no *if* at the time the charge was made, it was a poſitive one, and could not now be explained away by conditions introduced for the firſt time; yet however poſitive the noble Lord might have been then, or guarded he might be now, he could inform his Lordſhip that the New-England people were brave: that they had proved it; that the general who commanded at Bunker's Hill had confeſſed it; that another [General Burgoyne] no leſs celebrated for his talents than zeal for the cauſe, had confirmed it; that an officer, a particular friend of his, on the ſpot, had united in the ſame opinion. He combated the facts and concluſions of the noble Earl, relative to the particulars of that day. He denied the ſuperiority of numbers, and obſerved that he never recollected an inſtance where lines had been forced and no priſoners taken but ſuch as were wounded. The noble Viſcount, he ſaid, who moved the addreſs, when queſtioned about the practicability of reducing and holding America

America in ſubjection, inſtanced the conqueſt of Corſica. The difference of extent of the two countries, the vicinity of the iſland to France and the number of perſons in arms to reſiſt, which were no more than 6000; added to the immenſe ſuperiority of the French in point of numbers, was ſufficient to ſhew how little the two caſes were alike: and as to his Lordſhip's general anſwer, that 60,000 men in poſſeſſion of all the poſts of a country would in all probability ſucceed, he muſt have ſuppoſed the conqueſt as a matter previouſly effected; becauſe, he could ſee very little or no difference between the actual conqueſt of a country, and occupying all the poſts which command the neceſſary communication by land and ſea: that not being the caſe here, he muſt therefore look on his Lordſhip's anſwer as deciding nothing. He condemned the ſpeech and addreſs with ſeverity. His Grace concluded with calling upon the law Lords to riſe and give their opinions, whether his Majeſty was properly adviſed in taking Hanoverians into Britiſh pay, and bringing them into the dominions of Great Britain, without the previous conſent of Parliament.

The Earl *Gower* confeſſed that adminiſtration had been *deceived* and *miſled*; and that, conſequently, the meaſures taken were by no means proportioned to the nature and extent of the ſervice; that the accounts received from the ſouthern provinces led to this miſtake; and that ſeveral other events had happened, which it was impoſſible to foreſee or prevent. In particular, the province of New York had been overawed and compelled, by a party of inſurgents from Connecticut, into meaſures they would never have otherwiſe adopted; that however ſtill, if the friends of government were emancipated by the aid of a force from this country, he had ſtrong expectations, the colonies, by that means, might be brought to a ſenſe of their duty, without the mother country being obliged to have recourſe to thoſe ſcenes of miſery and deſolation, deſcribed by the noble Lords, on the other ſide. His Lordſhip lamented, that thoſe who had hitherto approved of the propriety of the meaſures reſpecting America, ſhould ſo ſuddenly abandon them; or that any foundation ſhould be laid, for ſuſpecting they wiſhed to defeat every thing they had on a former occaſion expreſſed the ſtrongeſt deſire to ſupport. On the whole, he was convinced, he ſaid, that the propoſition of the noble Duke would never anſwer the end propoſed; and that the queſtion was now ſimply reduced to the alternative of coercive meaſures, qualified in the manner he had pointed out, or for ever relinquiſhing any power, dominion, or advantage from our colonies in North America.

Lord

Lord *Ferrers*, of Chartley, apologized for his youth, and ſaid, that whatever deſire he might have to follow the opinion of his very near and noble relation, yet, as a Lord of Parliament, in the execution of a truſt, and in the diſcharge of a duty, he felt himſelf called to a conſcientious diſcharge of both. Such being his motives, he found himſelf under a neceſſity of ſupporting the amendment, and diſagreeing with the propoſed addreſs.

The Earl of *Shelburne*. I may, from this moment, congratulate the public, that the miniſtry have pronounced the funeral oration of their addreſſes. From the language of thoſe addreſſes, and from the various threats which were induſtriouſly circulated, I came to town with ſome apprehenſions, not for myſelf, but leſt the zeal of ſome of my friends for the violated rights of their ſuffering fellow ſubjects, ſhould have led them into unwary expreſſions which might have enabled ſome dark deſigning lawyer to ſtab the public freedom through the indiſcretion of an individual. I do not blame the addreſſers who have thus unjuſtly aſperſed the characters of thoſe whoſe aim is, by ſteady, juſt and temperate counſels, to ſave this deluded country from deſtruction. They were deceived; they were deceived by theſe very miniſters, who being now called upon, explicitly avow, without any appearance of ſhame or remorſe, that they have no evidence to ſupport their accuſation.

It is with equal aſtoniſhment and concern, my Lords, that I perceive not the leaſt mention made in the ſpeech which has been this day delivered to us, of a paper, the moſt important of any that could poſſibly come under the conſideration of this Houſe. I mean the laſt petition from the general congreſs in America. How comes it, that the colonies are charged with planning independency in the face of their explicit declaration to the contrary, contained in that petition? Who is it, that preſumes to put an aſſertion, (what ſhall I call it, my Lords) contrary to fact, contrary to evidence, notorious to the whole world, in that mouth, from which truth alone, if unprompted, would iſſue? It is their intention, by thus perpetually ſounding independence in the ears of the Americans, to lead them to it, or by treating them, upon ſuſpicion, with every poſſible violence, to compel them into that, which muſt be our ruin. For let viſionary writers ſay what they will, it is a plain and inconteſtible fact, that the commerce of America is the vital ſtream of this great empire. A noble and reverend Lord has inſinuated, that the petition ſeems to him to be conceived in terms of great art and ambiguity.

biguity. I have examined it with great care, but this morning I read it repeatedly, and to my apprehenſion, except a certain degree of addreſs neceſſary to meet the prejudices which have been wickedly and induſtriouſly excited here, there cannot be a fairer opportunity offered of extricating this country from the ruinous ſituation in which the folly of adminiſtration has involved us. It furniſhes the faireſt foundation for an honourable and advantageous accommodation. I have been long and intimately known to ſome gentlemen of that country, one of whom now takes a conſiderable ſhare in their proceedings; and I have ever found them and their correſpondents conſtant and earneſt in the wiſh for conciliation, upon the terms of antient connection.

My Lords, you have heard two of his Majeſty's miniſters acknowledge they were deceived in their information, and have erred in their meaſures reſpecting America. There wants only a ſimilar acknowledgment from a certain law Lord, who was forward to pledge himſelf laſt year for the ſucceſs of their plans. A little blood, indeed, he owned they might coſt; but with that, their efficacy was inevitable. The noble Lord's political ſagacity has for once forſaken him. A great deal of blood has been unhappily ſhed, to no purpoſe, but to ſever us more, if not put us aſunder for ever. But is it poſſible that your Lordſhips ſhould not have marked, and marked with indignation, the levity, and even ridicule, with which the noble Lord at the head of the admiralty has treated this moſt ſolemn ſubject. No man who did not feel himſelf ſecure in the promiſe of impunity from ſome quarter, would proclaim his miſtakes in triumph, ſport with the calamities of his country. It is aſtoniſhing that any one ſhould have dared to promiſe impunity to ſuch fatal errors, and a conduct ſo criminal; it is your Lordſhips buſineſs to look to this. Should ſuch men not only be at large unaccuſed, but highly truſted, adding freſh inſults, miſleading by freſh miſinformation, and manifeſting a total contempt of the public, both here and in America? The noble Lord laughs at all propoſitions of conciliation; repeats his imputation of cowardice againſt the Americans; ſays the idea of rights is to be driven out of their heads by blows; and ridicules the objections to employing foreigners and Papiſts. Is this a language, my Lords, becoming ſo great an officer of ſtate? Is it decent thus to ſtigmatize ſo great a part of the empire with ſo baſe a calumny? It is impoſſible that noble Lord can have leſs intolerancy in his diſpoſition than I have. But it does not therefore follow, that I ſhould think it a meaſure of no

moment, or of inconſiderable danger, to arm the hands of thoſe who are ſtrangers to toleration, and who pant for the extirpation of the Proteſtant religion. By what authority is it, that the crown has put the ſtrong fortreſſes of this empire into the poſſeſſion of foreign troops? I do not enquire whether it is with or againſt the letter of any particular law. I ſee it fundamentally infringing the firſt principles of our government; and do not heſitate to pronounce it high treaſon againſt the conſtitution. I foretell it is a meaſure which the indignation of this country will purſue, till it is utterly condemned. For, my Lords, if there were a ſettled plan to ſubdue the liberties of this country, what ſurer means could be adopted, than thoſe of arming Roman Catholics and introducing foreign troops? Before you venture to make Roman Catholics ſoldiers, let them be made citizens. They will otherwiſe willingly employ the arms in their hands, to deſtroy thoſe privileges of which they are not ſuffered to partake. If Hanover aſſiſts us, we muſt defend her when invaded. This involves us in continental connections and wars, which have already almoſt overwhelmed us with debt. In every view then, theſe meaſures are impolitic, unconſtitutional, and dangerous.

Much has been ſaid, my Lords, about not diſtruſting the preſent prince upon the throne; though we may be jealous of truſting ſuch powers with thoſe who may ſucceed him. It is not now a time for compliments. I do not diſtruſt the King that is now upon the throne, I have more veneration for the character of King William than for that of any prince that ever ſwayed a ſceptre. The greatneſs of his talents, the virtues and the heroiſm of his heart, render him, in my eſtimation, the firſt of men. Yet had I been in that Parliament which refuſed him his Dutch guards, I ſhould have been the foremoſt in ſo wiſe and conſtitutional a meaſure. My vote, my Lords, ſhall never be given for truſting the dangerous power of the ſword in foreign hands. And however I may truſt Engliſh ſwords will never be employed againſt Engliſh liberties, yet, I hold it my duty as a guardian of the conſtitution, to look ever with a jealous eye on the augmentation even of an Engliſh army.

My Lords, the miniſters lament, that it is their taſk, in this American buſineſs, to ſupport the meaſure of another adminiſtration. This is ſome acknowledgment at leaſt, that the meaſure was wrong. Why then did they ſupport it. What ſecret influence has compelled them to heap errors on errors, grievance upon grievance, till they have

ſhaken the conſtitution to its foundation, and brought the whole empire into danger and confuſion. The Americans judge from facts. They have ſeen an uniform lurking ſpirit of deſpotiſm pervade every adminiſtration. It has prevailed over the wiſeſt and moſt conſtitutional counſels; it has precipitated us into the moſt pernicious of all wars; a war with our brothers, our friends, and our fellow ſubjects. It was this lurking ſpirit of deſpotiſm that produced the ſtamp act in 1765; that fettered the repeal of that act in 1766; that revived the principles of it in 1767; that has accumulated oppreſſion upon oppreſſion ſince, till at length it has openly eſtabliſhed, by the Quebec Bill, popery and arbitrary power over half America.

It is the conſtant endeavour, my Lords, of thoſe who lend themſelves as the inſtruments of all the meaſures prompted by that pernicious ſpirit, for the emoluments it yields, to throw upon us the imputation of being prompted to oppoſition ſolely by a deſire of the ſame emoluments. But, my Lords, whatever may be the object in ordinary times, the preſent are big with dangers that abſorb every other conſideration. The inevitable conſequence of perſevering in theſe meaſures, muſt be ſuch a depreciation of our eſtates, that opulence will be reduced to competence, and that to indigence. In contemplation of this adverſity, I feel it a happineſs that I have been bred a ſoldier; accuſtomed to the moderation of that life, my fall from opulence will be eaſy; ſuch may it be with the reſt of your Lordſhips. But as you would avoid this, and ſtill greater calamities, let me beſeech you to temper, and reſtrain with your wiſdom, the violence of this fatal addreſs.

The queſtion was put upon the amendment. It paſſed in the negative. Contents 29; non-contents 69. The queſtion was next put upon the motion for an addreſs. It paſſed in the affirmative. Contents 66, and proxies 10, in all 76. Non-contents 33, no proxies.

A liſt of the minority, in the laſt diviſion.

The Duke of	Richmond	Earl of	Coventry
	Grafton		Jerſey
	Devonſhire		Cholmondeley
	Portland		Tankerville
	Mancheſter		Effingham
Marquis of	Rockingham		Fitzwilliam
Earl of	Stamford		Radnor
	Thanet	Viſcount	Torrington
	Abingdon	Lord	Craven
	Scarborough		Sondes

Lord	Boyle	Lord	Lyttelton
	Monſon		Wycombe
	King		Beaulieu
	Chedworth		Camden
	Archer	Biſhop of St.	Aſaph
	Romney		Peterborough.
	Ponſonby		

Diſſentient,

1ſt, Becauſe we cannot, as Engliſhmen, as chriſtians, or as men of common humanity, conſent to the proſecution of a cruel civil war, ſo little ſupported by juſtice, and ſo very fatal in its neceſſary conſequences, as that which is now waging againſt our brethren and fellow ſubjects in America. We have beheld with ſorrow and indignation, ſeſſion after ſeſſion, and notwithſtanding repeated warnings of the danger, attempts made to deprive ſome millions of Britiſh ſubjects of their trade, their laws, their conſtitution, their mutual intercourſe, and of the very food which God has given them for their ſubſiſtence. We have beheld endeavours uſed to enforce theſe impolitic ſeverities at the point of the bayonet. We have, on the other hand, beheld ſo large a part of the empire, united in one common cauſe, really ſacrificing with chearfulneſs their lives and fortunes, and preferring all the horrors of a war raging in the very heart of their country, to ignominious eaſe. We have beheld this part of his Majeſty's ſubjects, thus irritated by reſiſtance, and ſo ſucceſsful in it, ſtill making profeſſions, in which we think it neither wiſe nor decent to affect a diſbelief of the utmoſt loyalty to his Majeſty; and unwearied with continued repulſes, repeatedly petitioning for conciliation, upon ſuch terms only as ſhall be conſiſtent with the dignity and welfare of the mother country. When we conſider theſe things, we cannot look upon our fellow-ſubjects in America in any other light than that of freemen driven to reſiſtance by acts of oppreſſion and violence.

2dly, Becauſe this unnatural war, thus commenced in oppreſſion, and in the moſt erroneous policy, muſt, if perſevered in, be finally ruinous in its effects. The commerce of Great Britain with America was great and encreaſing, the profits immenſe, the advantages, as a nurſery of ſeamen, and as an inexhauſtible magazine of naval ſtores, infinite; and the continuance of that commerce, particularly in times of war, when moſt wanted to ſupport our fleets and revenues, not precarious, as all foreign trade muſt be, but depending ſolely on ourſelves. Theſe valuable reſources, which enabled us to face the united efforts of the Houſe of Bourbon,

are

are actually loſt to Great Britain, and irretrievably loſt, unleſs redeemed by immediate and effectual pacification.

3dly, Becauſe Great Britain, deprived of ſo valuable a part of its reſources, and not animated, either with motives of ſelf-defence, or with thoſe proſpects of advantage and glory, which have hitherto ſupported this nation in all its foreign wars, may poſſibly find itſelf unable to ſupply the means of carrying on a civil war, at ſuch a vaſt diſtance, in a country ſo peculiarly circumſtanced, and under the complicated difficulties which neceſſarily attend it. Still leſs ſhould we be able to preſerve, by mere force, that vaſt continent, and that growing multitude of reſolute freemen who inhabit it; even if that or any country was worth governing againſt the inclination of all its inhabitants. But we fear, that while we are making theſe fruitleſs efforts, refuſing to give credit to the declarations of our fellow ſubjects, and blindly confiding in the inſidious profeſſions of the natural enemies of this country, we are preparing an eaſy prey for thoſe who prudently ſit quiet, beholding British forces, which, if united, might be in a condition, from their valour, numbers, and diſcipline, to carry terror into the very heart of their kingdoms, deſtroying each other. Every event, which ever way it turns, is a victory to them. Our very hoſpitals furniſh them with daily triumphs; the greater, as they are certain, without any riſque to them of men or money.

4thly, Becauſe we conceive the calling in foreign forces to decide domeſtic quarrels, to be a meaſure both diſgraceful and dangerous; and that the advice which miniſters have dared to give to his Majeſty, which they have avowed and carried into execution, of ſending to the garriſons of Gibraltar and Port Mahon, the dominions of the crown of Great Britain, a part of his electoral troops, without any previous conſent, recommendation or authority of Parliament, is unconſtitutional. That Hanoverian troops ſhould, at the mere pleaſure of the miniſters, be conſidered as a part of the Britiſh military eſtabliſhment, and take a rotation of garriſon duties, through theſe dominions, is, in practice and precedent, of the higheſt danger to the ſafety and liberties of this kingdom, and tends wholly to invalidate the wiſe and ſalutary declaration of the grand fundamental law of our glorious deliverer, King William, which has bound together the rights of the ſubject and the ſucceſſion of the crown.

5thly, Becauſe the miniſters, who are to be entruſted with the management of this war, have proved themſelves

unequal to the taſk, and in every degree unworthy of public truſt. Parliament has given them every aſſiſtance they aſked; no unforeſeen accidents have ſtood in their way; no ſtorms have diſabled or delayed their operations; no foreign power hath, as yet, interfered; but notwithſtanding theſe advantages, by their ignorance, negligence, and want of conduct, our arms have been diſgraced; upwards of ten thouſand of the flower of our army, with an immenſe artillery, under four generals of reputation, and backed with a great naval force, have been miſerably blockaded in one ſea-port town, and after repeated and obſtinate battles, in which ſuch numbers of our braveſt men have fallen, the Britiſh forces have not been able to penetrate one mile into the country which they were ſent to ſubdue; important fortreſſes are ſeized, the governors are driven from their provinces, and it is doubtful whether, at this moment, we are in poſſeſſion of a ſingle town in all North America. Whether we conſider its extent or its commerce, England has loſt half its empire in one campaign. Nor can we impute the miſconduct of miniſters to mere inability, nor to their ignorance of the ſtate of America, upon which they attempt to juſtify themſelves; for while ſome members of adminiſtration confeſs they were deceived as to the ſtrength and condition of the provinces, we have from others received official information, that the inſufficiency of the navy was concealed from Parliament, and part of adminiſtration, from a fear of not receiving ſupport from its members: we cannot therefore conſent to an addreſs which may deceive his Majeſty and the public into a belief of the confidence of this Houſe in the preſent miniſters, who have deceived parliament, diſgraced the nation, loſt the colonies, and involved us in a civil war againſt our cleareſt intereſts; and, upon the moſt unjuſtifiable grounds, wantonly ſpilling the blood of thouſands of our fellow ſubjects.

Torrington
Fitzwilliam
Archer
Thanet
Cholmondeley
King
Portland
Stamford
Ponſonby
Abingdon
Mancheſter
Devonſhire
Chedworth
Boyle
Craven
Scarborough
Effingham
Rockingham
Richmond

October 27.

Addreſs reported. No debate. The King having appointed this day to receive the addreſs, it was preſented.

The humble Addreſs of the Right Honourable the Lords Spiritual and Temporal, in Parliament aſſembled.

Moſt Gracious Sovereign,

We your Majeſty's moſt dutiful and loyal ſubjects, the Lords Spiritual and Temporal, in Parliament aſſembled, beg leave to return you Majeſty our humble thanks for your moſt gracious ſpeech from the throne.

With the utmoſt abhorrence and indignation, we ſee the real deſign of thoſe deſperate men, who, by the groſſeſt miſrepreſentations, have deluded and precipitated our unhappy fellow ſubjects in America into meaſures no leſs ſubverſive of their own happineſs and true intereſts, than dangerous to the proſperity and ſafety of Great Britain. The powers they have aſſumed, and the arbitrary and oppreſſive acts which they have done, leave no doubt of their traitorous purpoſe to induce the colonies to ſhake off the controul of the ſupreme legiſlature, and to bury in an ungrateful oblivion the remembrance of the great induſtry with which they have been planted, the foſtering care with which they have been nurſed, the many advantages which they have enjoyed, and the expence of blood and treaſure with which they have been protected by this nation.

We cannot avoid expreſſing our concern, that the great tenderneſs with which your Majeſty has proceeded, and the conciliatory diſpoſition which appeared in the laſt ſeſſion of parliament, inſtead of having the deſired effect of undeceiving the miſled, and eſtabliſhing a confidence in the parent ſtate, have been turned to the advantage, and made inſtrumental to the purpoſes of this dangerous attempt; and whilſt we acknowledge this to be the conſequence of the difference of intention which prevail here and in America, we are penetrated with a juſt ſenſe of the motives which have regulated your Majeſty's endeavours to prevent, if it had been poſſible, the effuſion of the blood of our fellow ſubjects, and the calamities which are inſeparable from a ſtate of war; but ſince the rebellion is now become more general, and manifeſts the purpoſe of eſtabliſhing and maintaining an independent empire, we cannot but applaud your Majeſty's reſolution to vindicate the rights, the intereſts, and the honour of this kingdom, by a ſpeedy and moſt deciſive exertion; and for this purpoſe, we think it our indiſpenſable duty to declare that we will ſupport your Majeſty with our lives

and fortunes; and being fully perſuaded, that in the preſent ſtate of theſe diſorders, the moſt active will, in its effects, be the moſt merciful mode of proceeding, we hear with pleaſure, that your Majeſty has encreaſed your naval eſtabliſhment, and alſo greatly augmented your land forces. We are ſenſible of your Majeſty's kind conſideration, in having done it in ſuch a manner as may be the leaſt burthenſome to your kingdoms; and your Majeſty may be aſſured, that we ſhall cheerfully concur in whatever may be neceſſary to enable your Majeſty to profit of the friendly diſpoſition of foreign powers.

We are deeply impreſſed by the gracious motives which induced your Majeſty to ſend a part of your Electoral troops to the garriſons of Gibraltar and Port Mahon, by which aſſiſtance this country will be enabled to employ a larger number of its own eſtabliſhed forces in the maintenance of its authority; and we return your Majeſty our ſincereſt thanks for having ſo providently pointed out to us a further reſource in that national body of men, ſo conſtitutional in their nature, and ſo zealous in their duty, the militia of this kingdom.

We cannot ſufficiently admire your Majeſty's benevolent declaration, that when the wiſhed-for period arrives, that the unhappy and deluded multitude, againſt whom this force will be directed, ſhall become ſenſible of their error, your Majeſty will receive the miſled with tenderneſs and mercy; and we are fully ſenſible of the wiſe and compaſſionate ſentiments which have determined your Majeſty to delegate authority to certain perſons upon the ſpot, to grant general or particular pardons and indemnities, in ſuch manner, and to ſuch perſons, as they ſhall think fit, and to receive the ſubmiſſion of any province or colony which ſhall be diſpoſed to return to its allegiance; and we will moſt readily concur in granting to the perſons ſo commiſſioned ſuch farther powers as may beſt tend to promote and effectuate your Majeſty's ſalutary meaſures.

Permit us, Sir, to offer our grateful acknowledgments to your Majeſty for the full and explicit communication which your Majeſty has been pleaſed to make to us, and at the ſame time to expreſs the juſt ſenſe we entertain of the numerous bleſſings we enjoy, flowing from the ſource of never-ceaſing attention with which your Majeſty is occupied for the ſafety and happineſs of all your people: and we beg leave to aſſure your Majeſty, that we participate in the ſame deſire which animates your royal breaſt, and feel no other wiſh than to re-eſta-

re-eſtabliſh order and tranquillity through the ſeveral parts of your dominions, upon the baſis of a cloſe connection with, and conſtitutional dependance upon, Great Britain.

His Majeſty's Anſwer.

My Lords,

I receive with the moſt ſenſible ſatisfaction this addreſs, ſo fully expreſſive of your duty and loyalty to me. Nothing can be more acceptable than the aſſurances you give of your utmoſt ſupport to enable me to re-eſtabliſh order and tranquillity throughout all my dominions; and I ſhall moſt heartily concur with any meaſures that may tend to ſo ſalutary a purpoſe.

Adjourned to October 30.

October 30.

Private buſineſs. Adjourned to November 1.

November 1.

The Duke of *Mancheſter*. I beg leave to call your attention this day to a ſubject of as great importance to the liberty of this country, as America was to its wealth and power, before the violence of the times had wreſted that treaſure from the Britiſh crown, and ſpurned the jewel, becauſe the ſetting appeared uncouth. I do not mean, my Lords, to dwell long on the unfortunate ſtory; the page of future hiſtory will tell how Britain planted, nouriſhed, and, for two centuries, preſerved a ſecond Britiſh empire; how ſtrengthened by her ſons, ſhe roſe to ſuch a pitch of power, that this little iſland proved too mighty for the greateſt efforts of the greateſt nations. Within the ſpace of twenty years, the world beheld her arms triumphant in every quarter of the globe, her fleets diſplayed victorious banners, her ſails were ſpread, and conqueſt graced the canvaſs. Hiſtoric truth muſt likewiſe relate, within the ſame little ſpace of time, how Britain fell to half her greatneſs; how ſtrangely loſt, by misjudging miniſters, by raſh-adviſed councils, our gracious Sovereign, George the Third, ſaw more than half his empire crumble beneath his ſceptre; America, late the ſtrength, now the foe to Britain, diſmembered, torn, I fear, for ever loſt to England, whence ſhe ſprung. With this calamity heavy on us, our duty, intereſt, and love to that country which ſtill remains, calls on us to be ſtrictly watchful of its liberty. The late ſpeech from the throne has given a juſt alarm, has made a wound upon the conſtitution, which, if not quickly healed, may ſpread a dangerous venom. The ſentiments it breathes are full of higher claims of prerogative than any ſpeech that I can remember ſince the Revolution. It appears to contain

ſlights of this council, neglect of parliament, indifference of their approbation. The part I wiſh to call your Lordſhips attention to is that wherein his Majeſty informs the Houſe, "he has taken poſſeſſion of the garriſons of Gibraltar and Port Mahon with his Hanoverian forces" Far be it from me to impute the ſentiments of this ſpeech to the reſpectable mouth that was made to utter it. I am confident his Majeſty has too high notions of what is right, too great a love for juſtice, to wiſh to invade knowingly the real privileges of this nation. I may go further, my Lords, and even acquit the miniſters of any wicked, premeditated deſign to infringe the ſubjects liberty. I do not think ſuch evil of them; but I cannot ſo eaſily acquit them of ignorance of our laws, or indifference or inattention to them. My Lords, I take it to be an undoubted truth, an axiom in this government, that the King can maintain no ſtanding forces, other than what are approved by Parliament. But that I may not appear to build on my own reaſon only, give me leave, though I fear it may ſeem too tedious, for the ſubject is very dry, to quote ſome acts of parliament in ſupport of what I have advanced. I muſt begin by that great declaration of our liberties, the Bill of Rights. This act, my Lords, contains the claim of various indubitable rights from ancient uſage, nor aſks as favours any part. It is a capitulation with our Kings. The act declares the raiſing and keeping a ſtanding army within the kingdom, without conſent of parliament, is againſt law. The next I ſhall quote is the Mutiny Bill, which ſets out in the preamble, in the words of the Bill of Rights, but proceeds, "that it is neceſſary for the ſafety of the kingdom, the defence of the poſſeſſions of the crown, and the preſervation of the balance of Europe, that a certain number of forces ſhould be kept up." It then limits what the number ſhould be. I am well aware, it may be ſaid, the garriſons of Gibraltar and Port Mahon are not in that number; whence or for what reaſon that irregularity aroſe, I am ignorant; but thus far it is cured, that they are annually provided for as to pay and maintenance by parliament, and therefore muſt be ſuppoſed approved. My Lords, in the courſe of the late war, it was thought uſeful and neceſſary to raiſe a regiment of Americans, of 4000 men, in which ſome foreign officers were to ſerve; but it was not by the King's prerogative, but by act of parliament. At that time that great man, Lord Chatham, was miniſter. In this act, though paſſed amidſt all the turbulency of a war, *flagrante bello*, the greateſt precautions were taken to guard the people's rights; the number of foreign

reign officers were limited to fifty, the ſoldiers were to be naturalized ſubjects, proteſtants, to take the oath 1 Geo. I. and the Colonel was to be a natural born ſubject.

I will now bring your Lordſhip down to an act of later date: of ſo freſh a time, that there are few in this Houſe who were not in that Parliament that paſſed it: I mean the 8 George III. to increaſe the Iriſh army. This act recites, in the preamble, the act of 10 William, for diſbanding the Iriſh forces, and then provides, that as it may be neceſſary to keep up, for the defence of Ireland, 12,000 men, in order to give ſome aſſiſtance to the foreign garriſons, the army ſhould be encreaſed to 15,235, all natural born ſubjects. We ſee here the King calling for aſſiſtance of the Britiſh parliament, in order to increaſe the army in Ireland. He does not, even at the head of the Parliament of that kingdom, think his authority ſufficient, without ſanction of the parliament of Great Britain, to make the leaſt addition to his forces. I muſt likewiſe take notice, my Lords, that it will be matter of much doubt, whether Hanoverian forces, employed at Gibraltar or Minorca, will be under any law of war. The mutiny act extends but to troops therein ſpecified, or voted by Parliament. What law will they then be under? They cannot carry Hanoverian laws with them. The laws of England alone can govern; as Britiſh ſubjects, they will be under protection of Britiſh laws. My Lords, the King's prerogative I conceive to be no greater in one part of his dominions than another; the ſubject is equally protected by the laws, whether ſhivering in the highlands of the north, or ſcorching upon Gibraltar's rock. The late determined caſe of Fabrigas and Moiſtyn, has cleared the ſubjects rights. I will not be further tedious, but from every inſtance I have had the honour of ſubmitting to you, and from the conſtant practice, muſt infer, that the King has no right to maintain, in any part of the dominions of the Britiſh crown, any troops, other than are conſented to by Parliament, both as to number and to nation. I will therefore conclude with offering to your Lordſhips the following motion:

"That bringing into any part of the dominions of Great Britain, the electoral troops of his Majeſty, or any other foreign troops, without the previous conſent of parliament, is dangerous and unconſtitutional." I muſt obſerve, that by unconſtitutional, I mean is againſt law.

The Earl of *Rochford* confeſſed, that he was one of his Majeſty's miniſters who adviſed the meaſure, againſt which the vote of cenſure was now moved; that he was fully ſatisfied

fied it was perfectly juſtifiable, and was ready to abide the conſequences: that however far the profeſſions of any noble Lord in the Houſe might go, he would yield to none in a warm and ſteady attachment to the conſtitution, to the very bill now ſo juſtly extolled, the bill of rights, that great foundation of our liberties; but ſaying this, he could not perceive that in the moſt remote degree, that law could be conſtrued to apply or reach the meaſure now ſo peremptorily condemned by the noble Duke who made the motion. For his part, he was unable to ſee how it offended againſt the law, either in letter or ſpirit. The clauſe plainly importing two conditions; bringing troops "within the kingdom," and "in time of peace;" whereas, it was evident to the cleareſt demonſtration, that the troops in queſtion were not within the kingdom; nor would any Lord in the Houſe venture to affirm, that we were now debating in time of peace and tranquillity. Thoſe, he ſaid, were his general ſentiments; and were the motives which induced him to concur in the meaſure; nor had he heard a ſyllable urged againſt the propropriety of it, ſince it became a matter of public diſcuſſion, ſufficient to alter the opinion he at firſt conceived. But having learned that a noble Lord in the other Houſe [Lord North] who was governed by the ſame reaſons, finding that they did not ſtrike ſeveral gentlemen in the ſame light, was now probably moving a bill of indemnity, for the purpoſe of diſpelling all apprehenſions; and as that would of courſe meet the ideas of the noble Lords on the other ſide, he muſt be under the neceſſity of moving the previous queſtion. He knew, he ſaid, how unfavourable to the full debate and diſcuſſion of queſtions of importance this mode of proceeding was deemed; yet, he believed, when the motives he now alledged were attended to with candour, he would appear fully juſtified in the opinion of every part of the Houſe. His Lordſhip reſorted to a variety of other arguments in defence of the meaſure, particularly on the ground of expediency, and the urgent neceſſity there was for adopting it, in order that the troops which the Hanoverians were intended to replace might return to this kingdom, ſo as to forward the neceſſary embarkations for America early in the ſpring. He obſerved, that the fears ſuggeſted by the noble Duke were ill founded; for ſtill there would be a conſiderable force, compoſed of Britiſh troops, remain in the garriſons; in the proportion, at leaſt of 1400 to 1900 in one fortreſs, and 600 to 900 in the other. In ſhort, his Lordſhip defended the meaſure, on its being legal, conſtitutional, and expedient.

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The Earl *Talbot* ſpoke a conſiderable time againſt the impropriety of the act of indemnity, alluded to by the laſt noble Lord who ſpoke. He ſaid, he had never heard it ſo much as aſſerted, that an act of indemnity anſwered any other purpoſe, than to ſecure the adviſers of meaſures againſt private actions, ariſing from damages ſuſtained by perſonal contracts. Such were the caſes relative to the importation of hides, and ſtopping the ports in the year 1766, to prevent the exportation of corn. As to the law declaring thoſe rights, ſo warmly contended for by the noble Duke, it could not admit of a ground for an impeachment, becauſe that law ſtated nothing as deſcribing any particular ſpecies of offence, nor conſequently annexed no puniſhment. In his opinion, therefore, a bill of indemnity could not apply, becauſe the meaſure, if at all illegal, which he was convinced it was not, called for no protection againſt either impeachment or private actions.

The Duke of *Grafton* began with expreſſing his aſtoniſhment, that any Lord in that Houſe, any real friend to his country, any man who loved the conſtitution he was born under, could employ his time in commenting on the letter, and explaining away the ſpirit of that great bulwark of the conſtitution, the bill of rights; that law, which as it were circumſcribed within it the laws and liberties of the people of England. He ſhould not, he ſaid, enter into the quibbles or diſtinctions of Weſtminſter-hall, or weigh each word and ſentence to ſee what was its diſtinct, legal, or grammatical import. No; he ſhould appeal to the ſpirit, the intention, of that new *Magna Charta*, that claim of old rights, newly aſcertained, the manifeſt purpoſe for which it was framed, the co-exiſting circumſtances that gave it being on the part of an oppreſſed people: ſhould look upon it in the light of a ſolemn contract, entered into between the people and their newly-elected ſovereign; a compact meant to be binding on their reſpective poſterity and ſucceſſors. Whenever that ſacred Palladium was taken away, at that inſtant he would be bold to affirm, the laws, conſtitution, and liberties of England would be annihilated. His Grace next proceeded to recount the particular circumſtances, previous to the reſolution, which made ſuch a declaration neceſſary at that period; and adduced ſeveral very cogent arguments to ſhew that James the Second, had he been politic enough to accede to ſuch a declaration, might with leſs noiſe and infinitely more ſafety, have effected his purpoſes, than he could have done by any other means: for had the letter of the law been ſtretched in one inſtance, the

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ſpirit explained away in another, the buſineſs would have been executed without riſque or danger. He could not help obſerving, that the arguments urged by the Lords on the other ſide, if puſhed to their full extent, would go much farther than perhaps they choſe at preſent to avow. Certainly, if, "within the kingdom," did not comprehend the poſſeſſions of England, foreign troops, to any number, and on any occaſion, might be legally introduced into Scotland; for the argument went fairly to this, Scotland being not within the kingdom at the time the bill of rights was paſſed, foreign troops may be introduced, and kept on foot there, without conſent of Parliament. His Grace remarked, that ſuch opinions being entertained by great numbers in both Houſes of Parliament, was not what ſunk ſo deeply into his mind; but when he heard a noble Lord, high in office, [Lord Rochford] one of his Majeſty's ſecretaries of ſtate, one of his confidential ſervants, high in his favour, and having the ear of his ſovereign, avow ſuch ſentiments, he confeſſed he was ſtruck with aſtoniſhment and *grief*, leſt ſuch dangerous doctrines may have made an impreſſion on the beſt of minds, unfavourable to the liberties and peace of his ſubjects: yet in the midſt of his anxiety on this account, he was rejoiced to hear from his Lordſhip, that the noble Lord in the other Houſe, and his brethren in this, meant to bring in and ſupport a bill for the purpoſe of removing the apprehenſions, and diſpelling the jealouſies produced by ſo unpopular and unconſtitutional a meaſure. If this was to be the caſe, he would, for his part, accept of it, and would wiſh to poſtpone the motion before their Lordſhips, though he muſt ſtill continue to *feel* for the great intereſts of the nation, while on ſo critical and tremendous an occaſion, at the very eve of a conteſt, which, in all probability, muſt for ever decide on its glory, honour, intereſt, external greatneſs, and internal happineſs and proſperity; the perſons to whom his Majeſty was pleaſed to commit the government of his kingdoms had obſerved a moſt criminal ſilence reſpecting their great line of conduct in the future progreſs of this very weighty and important buſineſs. His Grace likewiſe remarked, in anſwer to ſomething which dropped from the two noble Lords who oppoſed the motion relative to the legality of augmenting the ſtanding forces in any part of the Britiſh dominions out of this kingdom, that when he had the honour to preſide at the treaſury, and to be one of his Majeſty's adviſers in the year 1768, on the augmentation of the troops on the Iriſh eſtabliſhment, from 12 to 15,000 men, he applied to the firſt law officer of the crown at that time, whether

whether the meaſure would be juſtifiable in point of legality, as it was repugnant to the diſbanding act of William the Third, which provided that the ſtanding military force in England ſhould not exceed 7000 men, nor in Ireland 12,000 in time of peace; but that able man gave his opinion, that the propoſed augmentation of the Iriſh troops would require an act of Parliament for its aid. If ſuch was the caution of the miniſters of that day, if ſuch was the opinion of the firſt law officer, what ſhall we ſay to the preſent, where I will venture to maintain, every ſanction or apology is wanting? His Grace wiſhed, before he ſat down, to know from the miniſters, whether the firſt law officer of the crown, for whoſe abilities and integrity he entertained the higheſt opinion, had been previouſly conſulted?

The Earl of *Rochford*, in reply, denied that he gave any aſſurance that the noble Lord in the other Houſe would move a bill of indemnity; or that he and his brethren in office would ſupport it in this, if he did. All he meant, he aſſured their Lordſhips, was, that probably the noble Lord who preſides at the treaſury-board might, to quiet the ill-founded fears of the country gentlemen, move ſome propoſition, or perhaps the bill of indemnity itſelf; but whatever meaſures thoſe fears might give birth to, he would now, as he had done before, put in his claim to be underſtood that he did not think there was any thing illegal or unconſtitutional in bringing Hanoverian troops into the fortreſſes of Gibraltar and Port Mahon, under the circumſtances which ſuggeſted the meaſure. He ſaid he was at a loſs to know what the noble Duke meant by the charge of *criminal ſilence* made on him and the reſt of the noble lords to whom his Majeſty had committed the immediate conduct of public affairs. Surely his Grace did not intend that they ſhould come to that Houſe, and lay before it all their private information, produce a liſt of the names of thoſe who gave it, and enter into a detail of every ſtep intended to be taken, and every operation meant to be carried into execution, ſhould America perſiſt to the fatal extremity of compelling this country ultimately to have recourſe to coercive meaſures. This, his Lordſhip obſerved, would indeed be as great an act of folly and abſurdity as any attributed to them by their adverſaries, throughout the whole of their miniſterial arrangements.

The Lord *Lyttleton* roſe, to ſupport the ſenſe the noble Duke put upon the noble Earl's words. He ſaid, it was in his recollection, he was ſure it was in the recollection of every noble Lord in that Houſe, that the reaſon, or rather

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the apology the noble Earl in office made to that Houſe, for putting the previous queſtion on a motion of ſuch ſingular importance, was, that a noble Lord, high in office, in the other Houſe, intended this day to make a motion for leave to bring in a bill of indemnity, in order to obviate and remove the apprehenſions of the country gentlemen. If then the noble Earl meant to retract, or explain away his words, he would be bold to ſay, that the preſent motion would meet with much ſtronger ſupport than his Lordſhip was aware of: on the other hand, if the noble Lords in office would ſpeak out, and pledge themſelves that ſuch a quieting meaſure was meant to be carried into execution, for his part, he was one that would, on the preſent very critical occaſion, prefer a bill of indemnity to a vote of cenſure on the adviſers of the meaſure. The arguments uſed by the noble Earl who moved the previous queſtion, and by the other noble Earl who ſupported him in opinion, afforded matter of equal ſurprize and alarm. Their Lordſhips ſay, the only ſecurity the people of England have againſt being governed by a ſtanding army, is the bill of rights; that the bill of rights only applies in ſuch inſtances, and to ſuch particular purpoſes. What then, ſays his Lordſhip, is the glorious Revolution, the only ſure foundation of all our liberties, the bill of rights, the compact entered into between the contracting parties at that glorious period, as well as the acknowledged ſenſe in which this modern *Magna Charta* has been received for nearly a century, to be at once done away by diſtinctions, diviſions, and explanations directly repugnant to the intentions of its original framers, to the ſpirit, to the letter, nay to both the legal and conſtitutional conſtruction? I was willing to make every reaſonable allowance; to grant ſomething for expediency, more for neceſſity; in ſhort, I was willing to accede to the propriety of any thing, or every thing, which might be urged in juſtification of the meaſure; but that it was legal, or conſtitutional, that is a propoſition I can never aſſent to; that is a doctrine, as an Engliſhman, I will never endure. Though a young man, I am old enough to remember the conduct of a great miniſter, a ſteady friend to his country, I mean that of the Earl of Chatham, upon a ſimilar occaſion. His Lordſhip ventured to call it ſimilar occaſion; yet he believed, no noble Lord in the Houſe, however ſanguine for the preſent ſyſtem of meaſures, would aſſert that the preſent urgency and neceſſity came up to the one he was going to mention. It was in the very heat of the war, when it neceſſarily required, to recruit our navy and army, on an average *from fifteen* to twenty thouſand men annually, that that great

great ſtateſman ſeeing, and very ſenſibly feeling the neceſſity of having recourſe to foreign levies, reſolved to raiſe a certain number of foreigners to be employed in the American war. His Lordſhip accordingly raiſed a German regiment, to conſiſt of four battalions; but how did he carry this meaſure into execution? Why, in the midſt of a war, the wideſt in its extent, moſt intereſting in its conſequences, the greateſt in its immediate importance, the heavieſt in point of expence; when our coaſts were daily expected to be invaded by our natural, dangerous, and inveterate enemies; while the war even in America was yet doubtful, if not unpropitious, the Earl of Chatham, inſtead of pleading the great, ſtrong, and juſtifiable motives of neceſſity; inſtead of cavilling on this word, or commenting on that, in the full ſpirit of the conſtitution, in the full ſpirit of an Engliſhman, came to Parliament, to obtain its ſanction. And ſo very careful was that great man, ſo tenacious of every thing that might be conſtrued into the moſt trifling invaſion of the act of ſettlement, that he procured two remarkable clauſes to be inſerted in the act of Parliament, which enabled the crown to take thoſe Germans into pay; the firſt providing that thoſe troops ſhould ſerve in America only; the other, that none of the foreign officers ſhould bear commiſſions higher than that of lieutenant-colonel.

The Earl of *Effingham* not only diſapproved of the meaſure of bringing foreign troops into any part of the Britiſh dominions, but the employing them at all in the preſent conteſt with America. He enumerated ſeveral very cogent reaſons why he thought ſuch a meaſure would be dangerous; but more particularly, when the operations of war would be of ſuch a nature as to bring them into the empire, if not into the kingdom, alluding to the report of 20,000 Ruſſians being taken into Britiſh pay, either to make war in America, or to defend this country againſt any attack that might be made by our foreign enemies near home. His Lordſhip next turned his thoughts to the motion; and, after expatiating on its dangerous tendency and manifeſt illegality, animadverted very pertinently on the danger of intruſting the care and protection of two ſuch valuable fortreſſes to the care of aliens, who could never be ſuppoſed to be ſo warmly intereſted in their ſafety and defence as Engliſhmen, who, to the duty and proweſs of ſoldiers, would always add the enthuſiaſtic zeal of freemen and Engliſhmen, who felt themſelves contending for nothing leſs than the grandeur, trade, commerce, and naval power of their country. He added, as a corroborating circumſtance of the care and attention which

ſhould always be paid by thoſe who had the concerns of the kingdom under their direction, to this well known fact, that the commanding officer at St. Roque, or the Spaniſh lines, had it always in ſtrict and poſitive orders to ſeize and improve every poſſible advantage, either by ſtratagem, open force, or ſurprize, for the recovery of Gibraltar.

The Duke of *Grafton*, in reply to ſomething which had fallen from two noble Lords in office, ſaid, he was too long converſant in buſineſs, and too well acquainted with the neceſſity of ſecreſy, to wiſh for any communications from his Majeſty's ſervants, which might probably ſubject the perſons or properties of thoſe who gave, and perhaps continue to give, the neceſſary informations on which perhaps plans of either hoſtility or conceſſion may be formed. He ſaid, he ſtill had it leſs in his thoughts to preſs the noble Earl [Earl of Rochford] who ſo pointedly animadverted on his charge of criminal ſilence, to declare what were the particular ſteps meant to be purſued, or the ſpecific operations meant to be adopted: nothing, he aſſured his Lordſhip, was further from his thoughts; for that was not the ſpecies of information he wanted. He had heard it generally reported, it had been given out in the papers, and ſtated as a fact, that the noble Lord who has the conduct of the national buſineſs in the other Houſe, informed the Houſe, it was intended to augment our military force to ſeventy thouſand men, and a proportionable naval eſtabliſhment; or, as it was reported, to the utmoſt extent; in ſhort, to ſtrain every nerve in ſupport of this very favourite war. A ſilence therefore on this ſubject, while general meaſures of coercion are ſo warmly recommended, is what I call criminal. We are hurried, or hurrying precipitately into meaſures of great extent and deep importance, without a ray of light to direct us in our progreſs. We ſhall ſit here and argue, day after day, on the meaſures propoſed, one by one, to our conſideration, while we remain totally ignorant of the facts, by which alone we can be enabled to judge whether we are acting right or wrong. I ſpeak here, and would wiſh to be underſtood, ſuppoſing the general meaſure of coercion to be wiſe, expedient, and in every reſpect juſtifiable. We neither know the forces which are to reſiſt us, their numbers, diſcipline, or reſources. On the other hand, we are as ill informed of the force we mean to employ againſt thoſe people, whether they are in part to conſiſt of foreigners; what is generally underſtood will be our probable expences; how the neceſſary ſupplies to carry on ſuch an unnatural war are to be raiſed. On the

the whole, we are totally ignorant of every ſingle point neceſſary to the proper determination of matters of ſuch high and weighty conſideration, points which might lead us to balance the expences, the inconveniencies, the hazards of ſuch an arduous undertaking againſt the claims of America; and, on the whole, to coolly decide whether it would not be more wiſe, juſt, expedient, and magnanimous, to adopt conciliatory than coercive meaſures. It is only by ſuch means as theſe, I ſpeak it with great deference, that we can be enabled to diſcharge our duty; it is only by ſuch a mode of proceeding, I am ſatisfied, it can be worth your Lordſhips while to attend your duty in this Houſe, with honour to yourſelves or benefit to the nation. His Grace cloſed this explanation by ſaying, that by nothing he had hitherto offered did he in the leaſt wiſh to abridge or impair the royal prerogative or authority of the crown; on the contrary, he always was, and would continue, to carefully watch, as far as in him lay, any encroachments on either ſide; the preſent power of introducing foreigners was, in his opinion, not a power legally inherent in the crown; he ſhould therefore oppoſe it as zealouſly as he would any, which tended directly or indirectly to ſtrip it of any of its juſt rights.

Lord Viſcount *Weymouth* contended, that neither the letter nor ſpirit of the bill of rights was by any means or in any degree invaded by that paſſage in the King's ſpeech alluded to by the motion of this day, much leſs violated. What, ſays his Lordſhip, are the words of that law? That no ſtanding army ſhall be kept on foot, without the conſent of Parliament, in *time* of *peace*, within this kingdom. What is the ſpirit and intention of this proviſion? Certainly that no army ſhall be kept up, without the conſent of Parliament, at any time. I will appeal to any noble Lord, at either ſide of the Houſe, if this be not perfectly conſonant both to the letter and ſpirit of the act. Is it pretended that there is any ſuch thing intended on the preſent occaſion? In times of moſt urgent neceſſity, during the receſs of Parliament, a body of troops is called for, by a particular exigency, ariſing during that receſs. His Majeſty, as Elector of Hanover, urged by the moſt gracious motives, offers the wanted aid in one capacity, and accepts of it in another. Does ſuch an act as this encroach on or defeat the bill of rights? Does it aſſert that any ſuch power is inherent in the crown? On the contrary, does it not expreſsly, at leaſt impliedly, aſſert the very reverſe, by ſubmitting the meaſure itſelf to the judgment of Parliament? So much, I believe, will ſuffice, as to the

objection of keeping up a ſtanding army without conſent of Parliment; and as to the legality, I will confeſs fairly, for my part, that I think the meaſure every way unexceptionable. The law annexes theſe two poſitive conditions, "within the kingdom," and "in time of peace." Is there a noble Lord preſent, who will gravely aſſert, that the word *kingdom*, here, means all the dependencies and poſſeſſions of the crown of England? Or, if there be, is there a ſecond Lord, who will, after, ſeriouſly contend that the preſent is ſuch a time of peace as ties up the hands of the Sovereign from exerting thoſe powers intruſted to him for the protection of every part of his dominions? If there be, I muſt fairly confeſs, that the law, thus conſtrued, would be productive, in ſome particular inſtances, not at all exceeding the bounds of probability, of evils, if poſſible, much more fatal to the ſafety of this empire, than any imputed to the meaſure now ſo loudly condemned. The noble Lord who ſpoke laſt informs us, that there is a conſtant ſtanding inſtruction to the commandant of the Spaniſh lines to be upon the look out, and whenever an opportunity offers, either by ſurprize, ſtratagem, or the known weakneſs of the garriſon of Gibraltar, to ſeize and improve it, ſo as, if poſſible, to regain the poſſeſſion of that important fortreſs. Now, for my part, this piece of information, if to be depended on, operates upon me in a very different manner from what it has on the noble Lord who imparted it; for it ſtrengthens me ſtill more in my opinion relative to the propriety of the meaſure; becauſe it ſhews how neceſſary it is to take care that Gibraltar ſhould at all times be garriſoned in ſuch a manner as to defeat any attempt there might be made on it, in purſuance of this general military inſtruction. His Lordſhip then turned his attention to the bill of indemnity which had been ſo often mentioned by ſeveral noble Lords in the courſe of the debate. He obſerved that a noble Duke, who ſpoke early, had expreſſed his ſurprize that any noble Lord in adminiſtration could raiſe a ſingle objection to a bill of indemnity: but he begged leave to remind his Grace, and call to the recollection of the Houſe, the conduct of ſome other noble Lords, when a bill of indemnity was offered, and at length forced on them, in the year 1766, for ſtopping up the ports, to prevent the exportation of corn. Then his Majeſty was made to juſtify the act of ſuſpending an act of Parliament, by the mere virtue of his royal authority; then it was that one noble Lord [ſuppoſed to be Lord *Northington*] ſaid, in mitigation of ſuch a groſs violation of the conſtitution

conſtitution and the laws, that at moſt the proclamation was but a forty days tyranny; it was then that another noble Earl [Earl of Chatham] who was at that particular period ſuppoſed to have the conduct of the affairs of this country, argued ſtrenuouſly againſt the propriety or neceſſity of the bill, though he at length conſented to it; and it was then another noble Lord [Lord Camden] high in office, contended to the very laſt, that the meaſure was juſtifiable, and refuſed to concur in a vote for its paſſing, though frequently preſſed by his friends and brethren in office.

The Earl of *Dartmouth* confeſſed, that he had been one of the adviſers of the meaſure for ſending Hanoverian troops to take poſſeſſion of Gibraltar and Minorca. He denied any or the leaſt intention of bringing the Ruſſians into Great Britain, nor was it, he ſaid, determined to employ them in any manner; at the ſame time, if a neceſſity ſhould ariſe, which he hoped would not, he could diſcover no impropriety in employing them in the manner in which they might be rendered moſt capable of co-operating and carrying into execution the meaſures which the wiſdom of Parliament might deem neceſſary, in purſuit of the juſt exertion of its conſtitutional claims directed to the general intereſts of the empire.

The Lord *Camden* preſſed the illegality of the meaſure which the noble Lords in office had ſo fully and repeatedly avowed their having adviſed. He ſaid it was not neceſſary, in order to decide on a queſtion of ſuch high importance, to ſend for a lawyer from Weſtminſter-hall, and produce him at their Lordſhips bar, with a label in his mouth, to declare what was the law of the land; for the law now under conſideration, he contended, was of a very different nature, and would admit, in its interpretation, of very few of the diſtinctions and technical modes of expoſition which were found neceſſary, to come at the true conſtruction of a matter of mere law; yet, even on that ground, if the queſtion was to be ſolely determined on it, he had not a ſingle doubt but he ſhould be able, againſt it warmeſt adverſaries, whether in private or public, to prove that it was one of the moſt clear and deciſive points that ever had half an hour's argument ſpent on it, or, indeed, the cleareſt which chance, ignorance, or obſtinacy, ever brought into legal controverſy. After elucidating, in the moſt ſatisfactory manner, the literal and obvious meaning of the clauſe in the bill of rights; after adverting to the ſpirit of that law, as applying to the grievance which was then to be remedied;

after pointing out the true conſtruction of the letter and ſpirit united, as interpreted for a ſeries of almoſt ninety years, and during the reigns of four princes, beſides the preſent, three of whom were foreigners, no ſlight matter of conſideration, he drew this obvious concluſion, that no foreign troops could be brought into the dominions of the crown of Great Britain, without the previous conſent of Parliament. His Lordſhip obſerved, that diſtinctions had been made between a time of peace and a time of war; but he was certain, that neither the law nor any uſage juſtified any ſuch interpretation. It was true, that the word *foreigners* was not mentioned in the law; but would any one infer from that, that though it was not permitted to keep a ſtanding army of natives, it might be wiſe, conſtitutional, and legal, to keep on foot a ſtanding army of foreigners? He ſaid he was aſhamed to dwell on ſuch puerile diſtinctions, were it not that ſuch great ſtreſs ſeemed to have been laid on them by one or two Lords on the other ſide. He next entered into a view of the general queſtion; and dwelt particularly upon two points. The firſt was, in relation to the charge made againſt him by the laſt noble Lord who ſpoke, relative to the bill of indemnity paſſed in 1766. His Lordſhip ſaid, that he always underſtood it to be a received maxim in politics, that the *ſalus populi* was the *ſuprema lex*; when, therefore, the then Lord Mayor of London informed the privy council that the crop of bread corn was extremely ſhort, not much above one third of the annual conſumption, the calamity was univerſal and threatened all Europe, and that conſequently every means would be uſed to drain the country of its ſcanty ſtock, ſo as by ſuch means to threaten a famine; he thought, for his part, and ever would continue to think ſo, that the maxim of *ſalus populi eſt ſuprema lex* was never more applicable. It is true, it was againſt an act of Parliament, but he was ſtill of opinion, with that great philoſopher Mr. Locke, that there were caſes of neceſſity, neither provided for nor foreſeen, which fully juſtified a departure from the mere letter of the law. That was his opinion then; ſo much ſo, that he could never be prevailed on to think, that he wanted a bill of indemnity, that he wanted a pardon, for concurring with the reſt of his Majeſty's miniſters, in preventing the dreadful conſequences of a famine, perhaps in ſaving the lives of ſome millions of his fellow-ſubjects; but what kind of affinity or ſimilarity there was between the neceſſity of that day and the neceſſity

of

of this, was what he could not poſſibly diſcover. Here it was only to give directions to have the troops ready to embark, to have the tranſports in the harbour, to aſſemble Parliament a few days earlier, and to procure a vote of both Houſes, by way of addreſs to the throne, by which means every propoſed end would be effectually anſwered: he doubted much if a ſingle day would be loſt, nay, he was convinced, the whole might be managed in ſuch a manner, as to avoid the loſs of a ſingle hour. The other matter he dwelt on was, the conſequences that were to be dreaded from the meaſures meant to be carried into execution. Thoſe he feared would turn out to be exactly ſimilar to what happened to the Athenians, in their conteſt with their colonies planted in the iſland of Sicily. They were a great maritime nation, they planted colonies, they increaſed their riches, power, and maritime ſtrength, by this plantation, they grew at length mighty and overbearing, tyrannical to their dependencies, and jealous of liberty in any part of the Athenian dominions, beyond the confines of Attica. They had triumphed over their neighbours, the republic of Sparta, who were in ſome meaſure to them what France is to us, their ſuperior at land, and their continual rival in power and greatneſs. What was the conſequence? Intoxicated with their increaſe of power and opulence, they began to oppreſs their colonies; the colonies took arms; four generals of great note were ſent from Athens to ſubdue them; the Athenians were defeated; more troops were ſent, reinforcement followed reinforcement; at length they were totally expelled that iſland; not a general, nor ſcarce a man, ever returned to relate the circumſtances of their ſucceſſive defeats. Thus, deprived of every foot of land they poſſeſſed in Sicily, and divided among themſelves, they ſhortly after fell a prey to their ambitious and inveterate enemies, the republic of Sparta.

The Earl of *Denbigh* inſiſted, that it was not the miniſtry that deceived or miſled that Houſe; but it was a ſet of men in this country who flattered themſelves they would be enabled thereby to force themſelves into power and office. Unfortunately for both countries, thoſe incendiaries had been too ſucceſsful. It was, therefore, neceſſary to convince ſuch men, that they could draw no advantage from ſuch arts, by which means thoſe deluſions would be diſpelled by which the people of America had been unhappily miſled; or if they ſhould pertinaciouſly adhere to their errors, they muſt be convinced, that no ſubject of the Britiſh empire can appeal to any

ſuppoſing that the ſons and deſcendants of the noble Lords who ſigned that proteſt ought to inherit the ſame political ſentiments with their titles and fortunes, but he perceived the noble Duke's father's name was not among the proteſters, and that his principles, of courſe, were very different from his ſon's; and that was another fair argument. His Lordſhip defended the whole of the meaſures engrafted on the King's ſpeech.

The Lord *Wycombe*, (Earl of Shelburne.) The bill of rights is declaratory. It ſuppoſes a law which can be found in no written book or ſtatute whatever. It can only be looked for by recurring to its principle. The only principle that can be ſuggeſted is the danger to be apprehended by keeping a ſtanding force without the conſent of Parliament. To do this within the limits of the kingdom, and in time of peace, is more dangerous, and carries with it leſs colour of neceſſity. To do the ſame in Ireland, Gibraltar, or any of the dependencies of the kingdom, may be leſs dangerous; but will any man ſay, there is no danger? If there be danger, the difference of the degree can make no change in the principle, nor in the law founded on it. It may be aſked, why was it not declared in this extent in the bill of rights? The letter of the law, and the hiſtory of it, give the anſwer. The Parliament was ſatisfied that King James had raiſed or kept a force within the kingdom in time of peace; and their declaration of the law was naturally commenſurate to his violation of it.

It muſt be a ſtrange interpretation of that declaration to infer from it, that a conduct on the part of the crown which, under ſuch aggravating circumſtances, was highly dangerous as well as illegal, could in a caſe where the danger differs only in the degree, be perfectly legal and innocent.

At a quarter paſt eight o'clock the Houſe divided upon the previous queſtion. Contents 31, and 1 proxy; Noncontents 53, and 22 proxies.

Adjourned to November 3.

November 3.

Private buſineſs.

Adjourned to November 6.

November 6.

Private buſineſs.

The Earl of *Dartmouth* laid before the Houſe (by his Majeſty's command) a paper, intituled, copy of the petition of the congreſs to the King, delivered to the Earl of Dartmouth,

even allowing that to be the caſe, ſome of the noble Lords, and many of the deſcendants of others of them, differed widely upon the ſubject in the year 1742, when a body of Hanoverians was taken into Britiſh pay, and afterwards the miniſter came to Parliament to make good the engagement. On that occaſion, there was a very remarkable and ſpirited proteſt entered on the journals. Here his Grace, after reading part of the proteſt, read ſeveral of the names, among which were thoſe of the Keeper of the privy-ſeal, Talbot, and ſeveral others. His Grace went beſides very fully into the queſtion at large, and cloſed his obſervations with this argument: The noble Lords on the other ſide inſiſt that it is competent to the King to raiſe and keep an army in time of war, or rebellion, in any part of his dominions, previous to the conſent of Parliament: that the paragraph in the bill of rights makes no diſtinction between an army of natives and foreigners; and that there is at preſent a rebellion in America. Now I will draw my concluſion, as an inevitable conſequence, from theſe premiſes, that the King of Great Britain may now, or at any future time, introduce into this kingdom directly, either in time of war, or when there is a rebellion in any part of this vaſt empire, any number of foreign mercenaries he pleaſes, without conſent of Parliament.

The Lord *Chancellor*, deſerting what he called the quibbles of Weſtminſter-hall, and the ſubtle diſtinctions of lawyers, allowed that the fortreſſes of Gibraltar and Port Mahon were fairly within the ſpirit and meaning of the paragraph of the act of ſettlement, and that in the ſame ſenſe too he underſtood it applied to foreigners, but to neither in the manner now contended for by the noble Lord who ſupported the motion, for if thoſe fortreſſes meant or came within the deſcription of "within the kingdom," ſo did America; conſequently America being now in rebellion, the operation of the bill of rights law muſt ceaſe till peace be reſtored; and on that ground the meaſure of ſending the Hanoverian troops to Gibraltar and Minorca was perfectly juſtifiable. His Lordſhip declared that, with the reſt of the cabinet miniſters, he had aſſiſted in adviſing the meaſure.

The Earl *Gower* followed the noble Lord on the woolſack in the ſame declaration, and entered into the conſideration of American affairs. He ſaid it was ſtrongly inſiſted on the other ſide, that we ſhould never be able to coerce America. He was ſure we ſhould; that was a fair argument. He ſaid that the noble Duke who ſpoke laſt read a long liſt of names,

ſup-

ſuppoſing that the ſons and deſcendants of the noble Lords who ſigned that proteſt ought to inherit the ſame political ſentiments with their titles and fortunes, but he perceived the noble Duke's father's name was not among the proteſters, and that his principles, of courſe, were very different from his ſon's; and that was another fair argument. His Lordſhip defended the whole of the meaſures engrafted on the King's ſpeech.

The Lord *Wycombe*, (Earl of Shelburne.) The bill of rights is declaratory. It ſuppoſes a law which can be found in no written book or ſtatute whatever. It can only be looked for by recurring to its principle. The only principle that can be ſuggeſted is the danger to be apprehended by keeping a ſtanding force without the conſent of Parliament. To do this within the limits of the kingdom, and in time of peace, is more dangerous, and carries with it leſs colour of neceſſity. To do the ſame in Ireland, Gibraltar, or any of the dependencies of the kingdom, may be leſs dangerous; but will any man ſay, there is no danger? If there be danger, the difference of the degree can make no change in the principle, nor in the law founded on it. It may be aſked, why was it not declared in this extent in the bill of rights? The letter of the law, and the hiſtory of it, give the anſwer. The Parliament was ſatisfied that King James had raiſed or kept a force within the kingdom in time of peace; and their declaration of the law was naturally commenſurate to his violation of it.

It muſt be a ſtrange interpretation of that declaration to infer from it, that a conduct on the part of the crown which, under ſuch aggravating circumſtances, was highly dangerous as well as illegal, could in a caſe where the danger differs only in the degree, be perfectly legal and innocent.

At a quarter paſt eight o'clock the Houſe divided upon the previous queſtion. Contents 31, and 1 proxy; Non-contents 53, and 22 proxies.

Adjourned to November 3.

November 3.

Private buſineſs.

Adjourned to November 6.

November 6.

Private buſineſs.

The Earl of *Dartmouth* laid before the Houſe (by his Majeſty's command) a paper, intituled, copy of the petition of the congreſs to the King, delivered to the Earl of Dartmouth,

mouth, by Meſſrs. Penn and Lee, on the firſt of September, 1775.*

November 7.

The order of the day for taking into conſideration a paper, purporting to be a petition to the King from the twelve American colonies, united in congreſs, ſigned by John Hancock as preſident, and counterſigned by the reſpective delegates of each province.

The Duke of *Richmond*, as ſoon as the clerk had read the petition, roſe and obſerved, that he now ſaw Mr. Penn, Governor of Pennſylvania, below the bar, and ſome doubt might ariſe in the courſe of the day's debate, whether or not the paper now read was genuine, he urged the propriety of calling that gentleman to authenticate it, as he underſtood that the petition was delivered by him into the hands of one of his Majeſty's ſecretaries of ſtate.

The Earl of *Sandwich* oppoſed this propoſition very ſtrenuouſly. He ſaid ſuch a motion was directly contrary to the conſtant mode of proceedings adopted by that Houſe. When witneſſes were examined at their Lordſhips' bar, notice was always previouſly given, and a motion made in purſuance of that notice; nor did he, ſince his firſt acquaintance with Parliament, ever recollect an inſtance of a witneſs being ſuddenly called to be examined, without the formalities he had juſt mentioned. For his part, that was his leading objection, though he ſuſpected the noble Duke who made the motion meant to employ it to very different purpoſes, to fiſh for information relative to the matter contained in the paper, as well as to authenticate it.

The Duke of *Richmond* replied, that he did not well underſtand what the noble Earl meant by the word *ſuſpect*; ſuſpicions were created by acts, which it was preſumed the actor would be deſirous to conceal. That could not however be the caſe on the preſent occaſion; for allowing the noble Lord's ſuſpicions to be well founded, he ſaw nothing in ſuch a procedure of which he need be aſhamed. He confeſſed he ſhould, if Mr. Penn was examined at their Lordſhips' bar, be deſirous to learn from that gentleman, what he knew relative to the general ſtate of America, preſuming no perſon was better

* This petition is inſerted in the Remembrancer, vol. 1, page 158.

ter qualified nor none would give it with greater candour and impartiality.

The Earl of *Dartmouth* ſaid, that ſuch a precedent was now propoſed to be eſtabliſhed by the noble Duke as would, in all probability, if carried, be deſtructive of all order. Beſides, he begged leave to remind the noble Duke, that the very grounds on which it was ſtated, that of authenticating the petition, ſhewed there was no neceſſity for complying with the motion; for he acknowledged the receipt of ſuch a petition from Mr. Penn, and believed himſelf, and made no doubt but all their Lordſhips were perfectly of the ſame opinion, that the paper was genuine.

Lord *Camden* expreſſed his ſurpriſe that any Lord in that Houſe could poſſibly oppoſe the preſent motion, for without debating the point of order, which he was convinced fully authorized the propriety of the motion, he ſhould be glad to know what objections the noble Lords in adminiſtration had to it. He was ſure it was out of their power to object to it, on any reaſonable ground; ſince that was the caſe, he hoped their Lordſhips would agree to the motion.

The Duke of *Richmond*, in reply to what had fallen from Lord Dartmouth, obſerved, that however well ſatisfied the noble Earl and his friends might be that the petition was genuine, yet he thought the formality of authenticating it became highly neceſſary, when it was known that Mr. Penn did not receive the petition *immediately* from the hands of the delegates; it having been ſent after him to England, in order to be preſented in the manner before deſcribed. He urged further, that the petition being ſigned by the perſons aſſembled in congreſs, in his opinion it would be very proper, that Mr. Penn, who was acquainted with the hand-writing of thoſe perſons, ſhould be called to prove it.

The Earl of *Dartmouth* replied, that if that was the main purpoſe for which Mr. Penn was to be called, his examination would anſwer no end whatever; the paper lying on the table being nothing more than a copy of an original in his office.

The Duke of *Richmond* inſiſted ſtill, that Mr. Penn's examination would be equally proper, whether the original paper was immediately before the Houſe, or in his Lordſhip's office; for when that gentleman came to be examined at the bar, all that would be deſired from him was, to know if the paper delivered by him to the noble Lord at the head of the American department, was really ſigned by the perſons whoſe names

names were thereunto annexed; that fact once aſcertained, the proof would be compleat, as their Lordſhips would be then ſatisfied, that the copy now read was a faithful one, by the aſſurances given by the noble Lord who had the original in his poſſeſſion.

Lord *Lyttleton* ſpoke chiefly to the point of order, and the numerous inconveniencies that muſt ariſe, if the preſent motion ſhould be carried, and eſtabliſhed into a precedent on future occaſions. He ſaid, if their Lordſhips, when ſummoned to deliberate and debate on any important queſtion, ſhould be ſurprized by extraneous matter, and witneſſes called to the bar to be examined, on points which might introduce other ſubjects into diſcuſſion, it would at once deſtroy that order and gravity for which their uſual courſe of proceeding was known ſo eminently to excel; in ſhort, it would create that kind of confuſion and uncertainty, which, wherever it prevails, is ſo derogatory to the wiſdom and diſpatch of buſineſs, in a deliberative aſſembly. As for the other part of the precedent, that of calling for *vivâ voce* proof, to authenticate petitions preſented to their Lordſhips, it was a matter he would never aſſent to; becauſe, in his opinion, ſuch a condition would be intolerable, and in many caſes impracticable; for it would amount to this, that every petition, from any part of the empire, which ſhould in future be preſented to that Houſe, whether from the moſt diſtant part of the kingdom, from Ireland, America, or the Eaſt Indies, muſt be authenticated by evidence at their Lordſhips' bar, in ſome inſtances to authenticate its contents, and in others to prove the handwriting of the perſons who may be ſuppoſed to ſign it. His Lordſhip was however of opinion, that although it would not be proper to examine Mr. Penn in the manner now moved for, it was competent for any Lord in that Houſe, upon due notice previouſly given, to call for any perſon or perſons who he might imagine would impart ſuch lights as promiſed to lead to an elucidation of the ſubject on which he meant to frame his motion.

The Duke of *Richmond* obſerved, that the noble Lords who declared themſelves adverſe to the motion, on the ground that it was contrary to the uſual mode of proceeding in that Houſe, and would eſtabliſh a precedent which might in future be an impediment to applications to them, in their legiſlative, deliberative, or judicial capacities, in the way of petition, he hoped would be ſatisfied, when he aſſured them, that no queſtion was intended to be put to Mr. Penn, on which he did not deſire it to be previouſly underſtood, that any noble Lord might

might be at liberty to riſe and object to it. He ſaid, that from matters which had fallen from ſeveral noble Lords in the courſe of the debate, and the great unwillingneſs ſome of them had ſhewn to have Mr. Penn examined, made him feel the urgent neceſſity of ſuch a propoſed examination; becauſe it proved, beyond queſtion, that they dreaded the conſequences of ſuch an enquiry, as mortally fatal to the meaſures they were now hurrying the Parliament and the nation to blindly and inconſiderately adopt. For his part, he had not the honour of being perſonally acquainted with Mr. Penn; but, from the gentleman's religion, the great intereſt he had in the event of the preſent unhappy diſputes with America, and as proprietor of one of the richeſt provinces of that continent, he knew no man who, from religious principles, political moderation, immediate intereſt, and thorough knowledge of the diſpoſitions of the people of that country, would be more likely to give that ſort of information, which the Houſe ought to wiſh to obtain, and which every true lover of his country, he was confident, would endeavour to trace to its moſt remote ſources.

The Duke of *Grafton*, rejecting the mere matter of order, as unworthy of their Lordſhips' conſideration, ſaid, he was extremely ſorry to obſerve ſuch a conduct purſued on the other ſide of the Houſe. The noble Duke who made the motion had preſſed it with all imaginable candour; he had even gone ſo far as to promiſe for himſelf, and in ſome meaſure pledged the good faith of his friends, that if any queſtion, which ſhould in the courſe of the propoſed examination ſeem to be improper, an unconditional objection from any noble Lord would be deemed ſufficient reaſon for his Grace to deſiſt. The averſion to any mode of enquiry, and the fixed reſolution to reject every kind of information which might promiſe to lead to the knowledge of the ſtate of that country, manifeſted this day, ſuggeſted to him very ſtrong fears; fears that the ſame fatal meaſures which directed the counſels of laſt year, were determined ſtill to be purſued. He ſaid he was very much ſurprized to hear the very ſame language adopted on the preſent occaſion, though the ruinous and fatal conſequences, which were produced by the ſame arguments, and the ſame miſtaken counſels of laſt ſeſſion, were at this inſtant now ſo ſenſibly felt. Another reaſon for the propoſed examination, and which, he flattered himſelf, when the circumſtances were recalled to their Lordſhips' minds, would have a proper weight with adminiſtration, was, the declaration of a noble Lord, high in office, [Lord Gower] who,

who, on the firſt day of the ſeſſion, ingenuouſly owned he had been deceived, and attributed all the miſcarriages of the laſt ſummer, and all the evils which now ſeem to be ſuſpended over the head of this devoted country, to a want of full and genuine information. Such then being the caſe, as ſtated by one noble Lord, and confirmed by almoſt every one who ſpoke on the ſame ſide; and ſuch being the evidence propoſed this day to be given at your Lordſhips' bar; how is it poſſible, ſays his Grace, that your Lordſhips can heſitate an inſtant on the choice, though experience had not taught you the neceſſity of ſuch an enquiry? But when experience has taught you the fatal conſequences of your former miſtakes, how is it poſſible that your Lordſhips can refuſe the aid of the lights now offered to be held out to you?

Earl *Gower* ſaid, it was unparliamentary, and extremely improper, to refer to any words ſpoken in a former debate, particularly on a different queſtion. He was however glad of an opportunity of explaining a matter which had been induſtriouſly propagated and miſrepreſented without doors, as if his words had imported an actual deſigned deceit put upon him, with intent to miſlead adminiſtration. Nothing, he ſolemnly affirmed, was farther from his thoughts: when he ſaid he had been deceived, he meant, that thoſe on whoſe informations and reaſonings adminiſtration reſted, had themſelves been miſinformed in point of fact; or, in reaſoning on the fact ſo repreſented, had been miſtaken in their concluſions. This was the utmoſt extent his ſaying he was deceived went to; and he would venture to appeal to their Lordſhips, if there was any thing more difficult than to reaſon on the ſtate and diſpoſition of a country. It was matter of opinion on either ſide, in which every man was more or leſs liable to err; when, therefore, he ſaid he was deceived, he begged their Lordſhips to underſtand him in the ſenſe he had now explained himſelf, and in no other. He ſaid the noble Duke near the woolſack, the Duke of Grafton, had thrown out another inſinuation directly contrary to the former, at leaſt in conſequence; that his Grace had aſſerted, their Lordſhips had been made to decide on their mutilated and garbled accounts, which was, in fact, ſaying, that adminiſtration had intelligence, but purpoſely held it back. He would appeal to the candour and recollection of the noble Duke, if, on a former occaſion, [the laſt debate] he did not himſelf condemn the impropriety of laying the information before the Houſe, in the exact ſtate it was received; when probably ſuch a conduct would

would be productive of ſo many fatal conſequences, no leſs than endangering the lives and properties of thoſe, whether Engliſhmen or natives, who have, through this conteſt, been the profeſſed and ſteady friends of this country. The word *garbled*, therefore, as applied to the conduct of adminiſtration, was, in his opinion, a very improper word. *Garbled*, according to its uſual acceptation, particularly as applied here, meant an omiſſion of every thing which might inform their Lordſhips properly on the ſubject; and bringing forward only ſuch parts of the information as would anſwer the particular purpoſe of thoſe who had an intereſt in ſuppreſſing the real ſenſe of the writer or informant. This he underſtood to be the true import of the word *garble*; a ſenſe, he would venture to affirm, in which it was never more improperly applied; for adminiſtration had all along laid every neceſſary information before their Lordſhips, and held back only that part which related to matters of mere private conſideration, or where a diſcloſure of facts and circumſtances might endanger the perſonal ſafety or property of the perſons concerned. On thoſe general grounds, as immediately applying to the queſtion before their Lordſhips, he was very unwilling that Mr. Penn ſhould be examined; but upon none more, than that his evidence might probably affect his own intereſts in America. It might create prejudices againſt him of a moſt fatal tendency. He was perfectly ſatisfied of the impartial, candid diſpoſition of that gentleman; yet, if it ſhould appear that he had formed his opinion on the other ſide of the queſtion, if any motion was to be made in conſequence of thoſe opinions, it would be neceſſary to call other evidence, before their Lordſhips could come to a determination; therefore, taking it in either light, he did not ſee what good purpoſe Mr. Penn's examination could anſwer, or to what end it was ultimately directed.

The Duke of *Richmond* changed his ground; he ſaid, if the noble Earl who ſpoke laſt meant ſeriouſly to go into the enquiry, and would pledge himſelf to the Houſe that he would do ſo, he was very willing, on ſo important a conſideration, to give up his motion for Mr. Penn's examination, and reſt on that aſſurance, that an enquiry would be ſet on foot, in order to come at that ſpecies of information ſo neceſſary to direct the progreſs of their future proceedings.

The Earl of *Effingham* obſerved, though the noble Duke had given up the point of order, he was perfectly ſatisfied that moſt, if not all, the witneſſes examined relative to the fiſhery bill

bill of laſt ſeſſion, were examined without any previous notice whatever being given.

Lord Viſcount *Weymouth* ſaid, he never knew an inſtance where a witneſs was called ſuddenly to the bar, without previous notice; that it had been the conſtant eſtabliſhed uſage of Parliament to do ſo; and that a deviation from that rule now would open a ſource of confuſion and diſorder in future, which it was the duty of every Lord in that Houſe to do all in his power to prevent. But the main point, and that he would wiſh to principally preſs on their Lordſhips, was, that if Mr. Penn was called to the bar and examined, it would have this effect, that after his evidence had been received, the noble Duke who called for the paper would probably frame ſome motion on the information then given, by which means, let that be what it might, the Houſe would be led of courſe to come to ſome reſolution, ariſing from what they had then heard. No man had a higher opinion of Mr. Penn's impartiality than he had, but ſtill, whatever he might impart to the Houſe, either by way of information or otherwiſe, would be but the opinion and information of one man, who, however reſpectable, could not be ſuppoſed every way competent to decide, ſo as to govern the determination of that Houſe upon a ſubject of ſuch great and ſingular importance. He would therefore ſubmit it to the noble Duke, if it would not be much properer to withdraw his motion for the preſent, and appoint ſome future day for the diſcuſſion of a ſubject of ſuch magnitude, on which other perſons converſant in the preſent ſituation of America might be ordered to attend, and be examined at the ſame time with Mr. Penn, ſo that the whole of the information might be received and judged of together.

The Duke of *Richmond* replied, that it was always underſtood, when any noble Lord in that Houſe moved for a paper, that he had ſome motion, directed to ſome particular object, to propoſe. That, he ſaid, was his intention on the preſent occaſion; but as the noble Viſcount who had ſpoken laſt had preſſed the impropriety of reſting entirely on Mr. Penn's evidence, he was very willing to have that gentleman examined for the preſent, and to poſtpone his motion till the next day. This, he preſumed, would completely obviate the noble Lord's objection againſt coming to any ſudden reſolution, barely on the information now deſired.

Lord Viſcount *Townſhend* inſiſted, that it was impoſſible to admit Mr. Penn to be examined on any ground offered by the noble Duke. He aſſured their Lordſhips, though he objected

to Mr. Penn's examination, he did not mean to impute the ſmalleſt degree of partiality to that gentleman: his evidence, however, muſt be very improper, as laying a foundation to ground a motion on; becauſe, be his information ever ſo impartial and well ſelected, it would ſtill be no more than the limited knowledge or particular opinions of a ſingle individual.

The Duke of *Grafton* roſe a ſecond time, and lamented in the moſt pathetic terms the fixed determination that had in the courſe of the debate ſhewn itſelf among the ſeveral members of adminiſtration to ſhut out every ſpecies of information, and to ruſh headlong on their own ruin; and which was much worſe, probably, to hurry on the ruin and deſtruction of the nation. His Grace obſerved, that a noble Lord high in office [Lord Gower] ſeemed unwilling to conſent to examine Mr. Penn, on the idea that it might affect his private intereſt, or that his evidence might affect perſons now in America. He underſtood General Gage was daily expected home to this country, and he preſumed, if any information ſhould be expected from him, the ſame apology would apply; his evidence might, nay, it muſt affect perſons in America, for there the ſcene is laid, there the perſons immediately concerned reſide. What is this, adds his Grace, but very plainly telling us, that we are to have no information at all? for I will venture to contend, that if the preſent motion be rejected on the ground now urged, that no motion of a ſimilar nature, reſpecting the affairs of America, can poſſibly ſucceed. What is this, but giving us to underſtand, that we muſt remain at the brink of that precipice, on which every lover of his country, every true Engliſhman, ſtands trembling and waiting the inſtant in which the fate of his country ſhall be irrecoverably decided, and whither, I may add, he has been led blindfolded or compelled to grope his way? Are we then to truſt to the ſame aſſurances by which one noble Lord was deceived, or ſhall we, like men who prefer the call of duty to every other conſideration, endeavour to obtain lights in this buſineſs, that have hitherto been denied us? For my part, though I have the misfortune to differ from the noble Lords in office, I am ſtill open to conviction. I have been informed of *ſome* things, have heard a *great deal*, and have, according to the lights I have been able to obtain, formed an opinion; but I frankly declare, that, on being better informed, I ſhould gladly embrace the truth. I know no man better calculated *to tell it us*, than the gentleman whoſe examination is now moved

moved for: for, beſides his known diſpoſition to candour and impartiality, he has every poſſible inducement to reveal it; and not one ſingle motive for ſuppreſſing or withholding it. Let me therefore intreat, nay, ſupplicate the noble Lords in adminiſtration to agree to the motion: on this point, ſurely, there ſhould not be a ſecond opinion in this Houſe. If your Lordſhips mean ſeriouſly, and will tell us fairly, that you have information to lay before the Houſe, and will fix a time for ſubmitting it to our conſideration, I ſhall wait with pleaſure, and rely, in full confidence, on the faith of ſuch an aſſurance. If, on the other hand, you tell us you have no information of your own, and that you are determined to reject all other, however important in its nature, at that inſtant, I ſhall augur the worſt, the moſt fatal conſequences, from ſo unparliamentary and unprecedented a mode of proceeding.

The Lord *Wycombe* [Earl of Shelburne] roſe to rectify one or two trifling miſtakes of the noble Duke who made the motion. He ſaid, that gentleman was not of the religious profeſſion his Grace ſeemed to allude to, nor was he proprietor of the province of Pennſylvania; but he acted there in a character, which in every reſpect fitted him to be one of the propereſt perſons imaginable, not only to be publicly examined, but ſpecially conſulted. He acted there as governor, by which he had the means of knowing the diſpoſition of the people within his government, and the ſtrength of thoſe who were for ſupporting the claims of the mother country, if any ſuch there were. He muſt likewiſe know, in a great meaſure, the prevailing diſpoſition of the whole American continent; as the place where the delegates and their followers choſe to aſſemble was in the capital of that province over which he preſided. His Lordſhip entered ſhortly into the general reaſons ſo often urged for examining Mr. Penn; and concluded with preſſing on the noble Lords the propriety of acceding to the motion, or of promiſing to produce evidence on ſome future day. A refuſal to ſo reaſonable a requeſt would, in his opinion, be fairly acknowledging, that they were ultimately determined to withhold every ſpecies of information, and conſequently, to ſtifle every degree of enquiry whatever.

The queſtion was put, and the Houſe divided. Contents 22; non-contents 56.

As ſoon as the numbers were declared, the Duke of Richmond moved, "that Mr. Penn might be ordered to attend,

in order to be examined at their Lordſhips bar to-morrow." [This motion produced another debate.]

Lord *Lyttelton* thought the notice much too ſhort, and recommended Wedneſday or Friday ſe'nnight. [This day was Tueſday.] He ſaid, it would be a very ſingular hardſhip on Mr. Penn, to be obliged to attend at their Lordſhips bar, and to undergo a long examination, in the courſe of which a variety of queſtions might be propounded, difficult to anſwer, on many accounts, and in ſome extremely unpleaſant and diſagreeable. On this account, as well as wiſhing to give the gentleman time to arrange his ideas on ſo important a ſubject, he expreſſed a deſire that the examination might be deferred till one of the days he mentioned. His Lordſhip made no motion.

The Duke of *Richmond* obſerved, that he imagined his Lordſhip's ſolicitude might be ſpared. He believed Mr. Penn was fully prepared; nay, it might be fairly and reaſonably preſumed he was; as he muſt, from the nature of his office, connections, and ſituation, have frequently turned his thoughts to the ſubject; it was the general, the only topic of the country he had juſt left; in fine, it was uppermoſt in every man's mind, almoſt on either ſide of the Atlantic, who reaſoned or thought at all on ſubjects of ſuch a nature.

The Earl *Gower*, to point out the impropriety of examining Mr. Penn, either as his information might affect himſelf, or affect others. He ſaid, the conſequences of diſcloſing matters, in which ſeveral perſons now in America were concerned, ought to be proceeded on with all poſſible caution and circumſpection.

The Earl of *Dartmouth* reaſoned in the ſame manner; and propoſed that Mr. Penn ſhould be indulged with a privilege of refuſing to anſwer any queſtion which he ſhould imagine might be injurious either to himſelf or to others. He likewiſe objected to the motion in point of time, and propoſed an amendment, to the purport of the amendment firſt ſuggeſted by him; but he framed no queſtion on it.

The Lord *Camden* condemned the noble Earl's propoſition, or amendment, in ſtrong terms. It was true, he ſaid, that Houſe was not tied up by the rigorous rules of proceedings in relation to evidence obſerved by the courts in Weſtminſter Hall; for, though they were a court of law, they acted upon a more liberal plan. They excuſed on account of indiſpoſition; they made great allowances in reſpect of their mode of examination; they preſſed no gentlemen wantonly into diſagreeable

agreeable ſituations: they avoided, as much as poſſible, any explanations that might hurt the feelings of the witneſs. All thoſe liberal modes of proceeding they had conſtantly adhered to. In the exerciſe of their judicature, they acted with a noble and indulgent liberality; but in ſo doing, they took care never to turn their backs on the eternal obligations they are always under of diſpenſing juſtice, as the firſt and moſt eſſential object of their duty; and their ſtrict attention to ſuch a conduct ſtill became more neceſſary, according to the magnitude of the object in contemplation. What then, ſays his Lordſhip, is the purport of the noble Earl's propoſition? Why, that in a matter every way anſwering to the caſes I have diſcriminated, from ordinary occurrences, that in ſuch a matter Mr. Penn ſhall be excuſed from anſwering only as much as he pleaſes. No, my Lords, I truſt no ſuch doctrine will ever prevail in this Houſe. Though I have as high an eſteem for the gentleman, whoſe name has been ſo often mentioned in this debate, I confeſs, if he were my deareſt and moſt intimate friend, I ſhould be extremely ſorry, I ſhould poſitively reject any propoſal for granting ſo improper and unprecedented an indulgence, particularly on the preſent occaſion, when ſo much may probably depend on his teſtimony; when, I may venture to add, his teſtimony may nearly affect the deareſt and moſt important intereſts of this country.

The Earl of *Denbigh* ſaid a few words againſt the ſhortneſs of the time; and moved, that Mr. Penn's examination ſhould be fixed for the enſuing Friday, the 10th.

The Lord *Wycombe* [Earl of Shelburne] cloſed the debate, and was ſevere on the arguments uſed by the noble Lords in adminiſtration, relative to concealing people's names. He ſaid, he always ſuſpected thoſe who gave private information under a condition of ſecrecy. This ſpecies of ſecret-telling was generally founded in perſonal intereſt, or ſiniſter views; for which reaſon, whenever ſecrets coming under this deſcription were imparted to him, he never heſitated on the propriety of repeating them, unleſs abſolute ſilence was enjoined. Such were the ſort of perſons, and ſuch were the views, he had ſtrong reaſon to ſuſpect, by which the noble Earl in office, and the reſt of his brethren, had been *deceived;* and he was ſorry to underſtand, by the whole of the doctrines and arguments urged in the courſe of the debate on the other ſide of the Houſe, that ſuch men are to be ſuffered to purſue their own intereſt, at the expence of the public; and by being

ing thus protected by promiſes of concealment, will in the end, he feared, be permitted to eſcape with impunity.

The queſtion was put upon the Earl of Denbigh's amendment. For it 52; againſt it 21.

November 8.

Private buſineſs.

November 9.

Private buſineſs.

November 10.

The Duke of *Richmond*, before he began to examine Mr. Penn, begged leave to remove an apprehenſion which ſeemed to prevail with ſeveral of their Lordſhips the laſt day, leſt that gentleman, from the delicacy of his ſituation, ſhould be obliged to anſwer any queſtion that might embarraſs him in relation to perſons or opinions on which he would wiſh to be ſilent. Aware of this, his Grace informed the Houſe, that he had drawn up the material queſtions he meant to put to the witneſs, and delivered him a copy, deſiring to point out ſuch, if any, as he wiſhed to decline anſwering; but Mr. Penn, after having peruſed the paper, returned it to him, with an aſſurance that none of the queſtions came within the deſcription his Grace ſeemed ſo ſolicitous to avoid.

The Earl of *Sandwich* animadverted obliquely on this procedure; ſaid, it looked as if the queſtions and anſwers had been previouſly conſulted and agreed on between the noble Duke and the witneſs.

His Grace obſerved, that was a moſt extraordinary interpretation the noble Earl put on his conduct: he imagined that the candour he had uſed on this occaſion would have met with a very different conſtruction; and reprehended the noble Earl very ſeverely, on the impropriety of his conduct.

The Earl of *Sandwich* replied, that he was within the judgment of their Lordſhips, whether he deſerved the reproof now given him; and explained his words, by ſaying he did not mean any previous conſultation as originating from his Grace, but merely a general conſultation relative to the ſubject of examination.

The order of the day being read, for taking into further conſideration the paper laid before the Houſe by the Earl of Dartmouth, on Monday laſt, (by his Majeſty's command) intituled, Copy of the petition of the Congreſs to the King, delivered to the Earl of Dartmouth by Meſſrs. Penn and Lee,

Lee, on the 1ſt of September, 1775; and for the Lords to be ſummoned; and for the attendance of Richard Penn, eſq.

The ſaid Richard Penn, eſq. was called in, and examined at the bar as follows, viz.

Queſtion. How long have you reſided in America?

Anſwer. I have reſided there four years.

Q. How long was you in the government in Pennſylvania?

A. Juſt two years.

Q. Do you know, or have you heard, of any violence or unfair proceedings, in the election of the members of the continental congreſs?

A. I have not heard of any.

Q. Do you think the members are men well informed of the temper, diſpoſition, and ſtrength of their reſpective provinces, and capable of conveying the ſenſe of America?

A. I think they are men of character, and capable of conveying the ſenſe of America.

Q. Do you think that their ſeveral proceedings do in reality convey the genuine ſenſe of thoſe provinces you are acquainted with?

A. They do undoubtedly convey the ſenſe of the provinces they repreſent.

Q. Have you any reaſon to doubt they do convey the true ſenſe of the other provinces?

A. They certainly do convey the ſenſe of the other provinces alſo.

Q. Do you think the provinces will be governed by their deciſions?

A. I firmly believe the provinces will be governed by their deciſions.

Q. Do you not think that the preſent war, on the part of America, is levied and carried on by the directions of the congreſs, and ſupported by the inclination and zeal of the coloniſts, in defence of their liberty?

A. This war is levied and carried on by a ſenſe of the defence of their liberties, as they think.

Q. Can you think that it is levied or carried on by any other means or perſons?

A. I do not think it is carried on by any other means or account.

Q. Are you perſonally acquainted with many of the members of the congreſs?

A. I am acquainted with almoſt all the members of the congreſs.

Q. Do you think they levy and carry on this war for the purpoſe of eſtabliſhing an independent empire?

A. I think they do not carry on the war for independency; I never heard them breathe ſentiments of that nature.

Q. For what purpoſe do you believe they have taken up arms?

A. In defence of their liberties.

Q. Was you in America at the time the ſtamp act was laid?

A. I was.

Q. What effects did it produce?

A. It cauſed great diſcontent, uneaſineſs, and diſtreſs.

Q. Was you there when it was repealed?

A. I was.

Q. What effects did the repeal produce?

A. The repeal gave great joy, and the anniverſary was kept as a day of mirth and feſtivity.

Q. Were the Americans ſatisfied with their condition, notwithſtanding the declaratory act accompanied the repeal of the ſtamp act?

A. They were ſatisfied with their condition, notwithſtanding the declaratory act.

Q. If Great Britain had left things in the ſtate they then were, do you think America would have remained content?

A. I think they would have remained content.

Q. Is it the general opinion in America, that they are able to reſiſt the arms of Great Britain employed to enforce taxation and the late acts complained of in America?

A. It is the opinion of all I have ever converſed with.

Q. Is the ſpirit of reſiſtance to theſe acts general, as far as your knowledge goes?

A. Quite general.

Q. What force has the province of Pennſylvania raiſed?

A. When I left Pennſylvania they had 20,000 men in arms embodied, but not in pay, and 4500 men ſince raiſed.

Q. What were theſe 20,000? militia, or what?

A. They were volunteers throughout the province.

Q. What were the 4500 men?

A. They were minute men, when upon ſervice in pay.

Q. Are they included in the 20,000 men, or excluſive of them?

A. Excluſive.

Q. Doth the province contribute money beſides to the continental army?

A. They

A. They do.

Q. How many men fit to bear arms is it ſuppoſed there are in Pennſylvania?

A. Sixty thouſand.

Q. What proportion of theſe 60,000 men do you believe would willingly come forth, if neceſſary, in the preſent conteſt?

A. All, I believe.

Q. Doth Pennſylvania grow a ſufficient quantity of corn to ſupply its inhabitants?

A. Much more than is neceſſary, for they export conſiderably every year.

Q. Do they make gunpowder in Pennſylvania?

A. They have lately.

Q. Have they taken any methods to procure ſaltpetre?

A. They have eſtabliſhed ſeveral works for that purpoſe.

Q. Do they caſt braſs cannon?

A. They do in the city of Philadelphia.

Q. Have they the materials and means of caſting iron cannon?

A. They have in great plenty.

Q. Do they make ſmall arms?

A. They do in great numbers, and very complete.

Q. Is it not reckoned that there are in Pennſylvania and New York many ſtrong poſts and conſiderable rivers?

A. There are.

Q. Are there bridges over the principal rivers?

A. Bridges are not common, in general there are ferries; the rivers are too rapid for bridges.

Q. Do they build ſhips in Pennſylvania?

A. They do.

Q. Do they build them expeditiouſly?

A. Very expeditiouſly.

Q. Of what burden?

A. Three hundred or four hundred ton.

Q. Did the congreſs and the people in general ſeem diſſatisfied with the reception their petitions had met with here?

A. The colonies were diſſatisfied with the reception of their petitions; they had conceived great hopes from that I brought over, which was ſtiled the olive branch, and I was complimented by my friends upon being the bearer thereof.

Q. If conciliatory meaſures are not ſpeedily purſued, is it not to be feared that the congreſs will form ſome connection with foreign powers?

A. It is greatly to be feared, if conciliatory meaſures are not ſpeedily purſued.

Q. If any connection with foreign powers ſhould be formed, do you not think that it will be very difficult to perſuade America to renounce engagements ſhe has once entered into?

A. I do.

Q. When you delivered this petition, did the Secretary of State aſk you any queſtions relative to that country?

A. None at all.

Q. Did he, or any other miniſter, at any other time ſince your arrival, aſk you any queſtions as to the ſtate or temper of America?

A. I have not been aſked any queſtions by perſons in authority.

Q. Did moſt thinking men in Philadelphia underſtand the refuſal of the petition would be a bar to all reconcilement?

A. They did.

Q. [*from the Earl of Sandwich*] Have you ever read the declaratory act?

A. I have not read it.

Q. Have you not heard of it?

A. Yes, I have heard of it, but not much diſcuſſed.

Q. Do you think that the colonies aſſent to the following words: "That the colonies and plantations in America have been, are, and, of right, ought to be, ſubordinate unto and dependent upon the Imperial crown and Parliament of Great Britain?"

A. The colonies, I believe, are inclined to acknowledge the imperial authority of Great Britain, but not in taxation.

Q. Do you think they acquieſce in every other ſenſe of the declaratory act, except taxation?

The Duke of *Richmond* objected to the queſtion. He inſiſted, it was neither fair nor parliamentary, to lead the witneſs into diſcuſſions of ſuch an intricate nature, for the purpoſe of involving him in confuſion and conſequent contradiction. It was a ſubject of a very abſtruſe and intricate nature; men of the firſt-rate abilities and experience entertained different opinions concerning it, and it was of courſe out of the view entirely of examinations at their Lordſhips bar.

Lord *Sandwich* replied, he was ſtrictly within order; that the witneſs's own ſentiments were not deſired; but ſeeming to be ſo well acquainted with the perſons of the members who compoſed the congreſs, it was probable they might have

have communicated their opinions to him on the preſent ſubject of inquiry.

The witneſs at the commencement of this converſation, having been deſired to withdraw, was again called in, and replied.

A. Believes the colonies acquieſce in the words of the declaratory law.

Q. Was there no violence uſed in the election of the members of the congreſs?

A. I know of my own knowledge only reſpecting Pennſylvania, where they were elected by the houſe of aſſembly.

Q. Do you know all the members of the congreſs?

A. I am acquainted with almoſt all of them.

Q. Do you know Mr. Harriſon?

A. I do, he is delegate from Virginia.

Q. Is he a man of good character?

A. I believe him to be ſo, I never heard to the contrary.

Q. Is he able to convey the ſenſe of the province he repreſents?

A. I imagine ſo, or they would not have elected him.

Q. Are you acquainted with the ſentiments of America in general?

A. I am particularly acquainted only with the ſentiments of Pennſylvania.

Q. Have you heard of the reſolutions of Suffolk in Maſſachuſet's Bay?

A. I have.

Q. Have the congreſs declared their approbation of them?

A. I believe they have, it was in the public papers.

Q. Have you not heard of violences committed on perſons for ſpeaking their opinions?

A. Not in Pennſylvania.

Q. Are the ſentiments of the northern and ſouthern provinces ſimilar?

A. I believe they are.

Q. Are the people of the different provinces in a ſtate of freedom?

A. They think themſelves ſo.

Q. Would not perſons who were to advance ſentiments different from the congreſs be in danger?

A. I believe they would.

Q. Do not you know of people having been perſecuted for their opinions?

A. I do

A. I do not know of any ſuch thing in Pennſylvania during my reſidence there.

Q. Have you not heard of ſuch things in other colonies?

A. I have heard ſo.

Q. What notice did the congreſs take of the reſolution of the Houſe of Commons laſt year?

A. I do not know, they always keep their deliberations to themſelves.

Q. Was the plan propoſed by Lord Chatham laſt year taken notice of by the congreſs?

A. Not that I know of.

Q. Do you know whether the congreſs publiſhed any thing as to the reſolutions of laſt year?

A. Not that I recollect.

Q. Was the conciliatory plan of laſt year conſidered in the provinces?

A. It was conſidered in Pennſylvania, and rejected by the houſe of aſſembly, becauſe they would not forſake their ſiſter colonies, nor do any thing without conſulting them.

Q. What ſort of men were the 20,000 men who offered to enroll themſelves?

A. They were men of the firſt character and fortune.

Q. Were they not all perſons of property or poſſeſſing land?

A. There might be ſome others among them, but in general they were ſo.

Q. Unleſs the congreſs had the confidence of the Americans, could they have any other means of enforcing obedience to their orders?

A. They could not.

Q. Doth the congreſs meet with the general approbation of America?

A. When the congreſs was firſt propoſed no one oppoſed it, it ſeemed to be the general wiſh of the people.

Q. Could a ſufficient number of people be found to ſupport any one in ſpeaking or writing againſt the congreſs?

A. No.

Q. [*from the Earl of Denbigh*] Are you maſter of the charter of Pennſylvania?

A. I believe I am, *I have read it often.*

Q. Are the inhabitants well ſatisfied with their charter?

A. I believe they *are perfectly ſo.*

Q. Do you know the clauſe that ſubjects them to taxation?

A. I do

A. I do know that clauſe.

Q. Do you think they are ſatisfied with it?

A. Yes.

Q. Is it not the object of the congreſs to throw off the regulations of their trade?

A. No.

Q. Have the congreſs perſecuted people?

A. Not to my knowedge.

Q. Would not the moſt opulent inhabitants prefer freedom under this country to what they now enjoy?

A. They would prefer it to any other ſtate of freedom.

Q. Do you think they wiſh to ſupport the meaſures of the congreſs at preſent?

A. It is firmly my opinion that they do, but wiſh at the ſame time for a reconciliation with this country.

Q. When you ſaid that Pennſylvania was ſatisfied with the clauſe in their charter concerning taxation, did you mean to ſay that they were willing to be taxed by Parliament?

A. I don't believe Pennſylvania would be ſatisfied to be taxed by this country and by their own government too.

[*Withdrew.*

The Duke of *Richmond* ſaid, he would ſhew the neceſſity of an immediate reconciliation between Great Britain and her colonies. His Grace obſerved, that the coloniſts were diſpoſed to an amicable adjuſtment of differences, was evident from the very laſt petition which had been preſented from the congreſs to the King. The prayer of that petition was, "for a reſtoration of peace," and it was preſſed home on the conſideration of Parliament by the language it was cloathed in, which was that of dutiful ſubmiſſion to the ſovereignty of Great Britain, as far as the ſovereignty was compatible with thoſe rights ſecured to freemen by the conſtitution of the empire. This, and infinitely more might be ſaid in behalf of the reſtoration of peace, "that it was the object panted after by one, and it was the only thing conducive to the happineſs of both of the belligerent powers." Should the war be pertinaciouſly purſued, what, unleſs carnage, deſolation, an augmentation of expence, and every evil reſulting from civil diſcord, were to be expected? If the conqueſt of America was the meaſure propoſed, in his apprehenſion, the difficulties reſulting from the attempt, were of ſuch a magnitude as hardly to be ſurmounted in the given ſtate of things. The Americans, whether they had or had not the courage to make uſe of arms,

were

were at leaſt expert in the mode of uſing them. They had reſources within themſelves for the ſubſiſtence of their armies, and they were intimately acquainted with all the paſſes and defiles throughout their country. On the other hand, an army tranſported from England to America had ſubſiſtence to ſeek for on the ſpot, or muſt wait in expectation of ſuccours from Great Britain. To any peer who had conſulted the ſtate of the country, it muſt be evident, that there was one almoſt inſuperable difficulty with which an army would have to ſtruggle. America abounded with vaſt rivers; the rapidity of the currents rendered the conſtruction of bridges ſo inſecure, as hitherto to diſſuade the inhabitants from the futility of the attempt. An army, therefore, would find thoſe rivers ſo many natural barriers againſt every effort they might make to penetrate the interior parts of the country. But admitting the army advanced to any given ſpot conjecture might chuſe to ſpecify; was it certain, that by the conqueſt of this or that town, the ſpirit of the people would be broken, or the ferocity of their paſſion for liberty be reſtrained within juſt ſuch bounds of decorum as Parliament might preſcribe? If this could not be enſured, the depopulation of villages, or the levelling of towns, were triumphs which cruelty only could delight in, or a thirſt for blood propoſe. What proofs, however, had we to exhibit, that even our arms would be attended with ſuch ſucceſs, as to carry fire and ſword undefeated throughout the continent? The troops under the command of General Gage had acted bravely; but what victory had they atchieved? The unhappy affair at Lexington evinced, that thoſe regiments which were to *look* the Americans into ſubjection, did not altogether carry ſuch terror in their countenances. Hence, in his judgment, from the ſpecimens already afforded; from conſidering the ſtate of the country on the one hand, the diſpoſition of the people on the other, and the various accumulating difficulties attending the ſubſiſtence of the army, in proportion as it was farther advanced from the mart of ſupplies, all theſe circumſtances collectively taken, formed grounds ſufficient to pronounce on the impracticability of the conqueſt.

But laying aſide for one moment the practicability of conqueſt, whither were we to turn our eyes for that coloſſean army, by which the reduction of America was to be effected? The noble Duke had heard of 20,000 Ruſſians. This might be mere matter of report, but as miniſtry did not think it expedient

expedient to afford Parliament any ſolid information, report was all that peers now had to debate on. There was ſuch a fluctuation of men, though no change of meaſures, that it was impoſſible for him to conjecture to whom he ſhould apply for information. Whether or not the noble Lord in red [Lord Lyttelton] was now a miniſter of the day, could not with certainty be pronounced; if the peer alluded to was in the ſecrets of government, he might poſſibly indulge the Houſe with ſome information reſpecting the 20,000 Ruſſians intended to be ſent againſt America. In the interim, the noble Duke thought it by no means inexpedient to ſtate the expenſiveneſs of the meaſure, as a principal reaſon why it ſhould be reprobated.

The tranſportation of 20,000 Ruffians would coſt government 500,000l. An equal number of Britiſh troops ſhould be ſent at the ſame period, or miniſtry might find, that the Ruffians, inſtead of conquering America for England, would take poſſeſſion of it themſelves, in virtue of that law of conqueſt acknowledged by all freebooters. That the Ruffians would gladly emigrate to America, no perſon could doubt, who was in the ſmalleſt degree acquainted with the diſpoſitions of thoſe people. Shoals of Coſſacks were continually deſerting their country, to ſeek more comfortable ſettlements in the North of China. Seventy thouſand of theſe Coſſacks, proceeding on ſuch a plan, had lately bidden adieu to the Ruſſian empire. It could not therefore be imagined, that twenty thouſand Ruffians would have the leaſt objection to be ſent, free of expence, to America; but there was much reaſon to ſuſpect, that, when there, they might think the advantages reſulting from ſubmitting to the American congreſs preferable to thoſe they could derive from defending the meaſures of a Britiſh parliament.

His Grace next treated the plan of ſending live ſtock to Boſton, in order to ſupply the King's troops with freſh meat, with great ridicule, and ſhewed the difficulties the army would have to encounter, ſuppoſing they ſhould be able to penetrate into the country; a cloſe country in ſome places, in others abounding in foreſts and underwoods, interſected by deep and broad rivers; but, above all, a country where every buſh would conceal an enemy, where the cultivated parts would be laid waſte, and the army, if any army could march or ſubſiſt, would be obliged to draw all its proviſions from Europe, and all its freſh meat from Smithfield Market—Suppoſing, then, that the troops had ſcarcely any thing to impede their

their progreſs, yet the neceſſity of carrying along with them every thing they wanted, through a country thus rendered deſert, he contended, would give birth to ſuch an innumerable train of difficulties, as no general, however experienced, would be able to obviate; nor no troops, however brave, be able to ſurmount. To this picture he contraſted the contents of the paper now on their Lordſhips' table, the petition from the continental congreſs to the King, which breathes nothing but loyalty and obedience to his Majeſty, and ſubmiſſion to the conſtitutional claims of Parliament. Here his Grace referred to ſeveral paſſages, expreſſive of thoſe ſentiments, and again alluded to ſeveral parts of the evidence in affirmance of their ſincerity; and concluded by drawing a picture of the various bleſſings that would be derived, and the innumerable evils that would be averted, ſhould their Lordſhips think proper to take the petition into conſideration, on the foot of deeming it a proper foundation of treaty and conceſſion. His Grace then moved, "that the petition from the continental congreſs to the King, was a ground for conciliation of the unhappy differences at preſent ſubſiſting between Great Britain and America."

The Earl of *Dartmouth* contended, it was impoſſible to recognize the petition, which was the ſubject of the preſent motion, without at the ſame inſtant relinquiſhing the ſovereignty of the Britiſh Parliament. It was no longer a queſtion about taxation, about the *quantum* to be raiſed, or the mode of raiſing it; it was not the conqueſt, but the allegiance of the colonies, which adminiſtration were deſirous of obtaining. In eſtimating the force neceſſary for the ſubjugation of America, as well as in ſtating the neceſſity of immediate conciliation, the noble Duke had proceeded on the ſuppoſition of there being two equal belligerent powers engaged in a conteſt, which it was the intereſt of both to have decided by accommodation. Had the noble Duke purpoſely forgotten that the belligerent power, whoſe proweſs he had ſo much extolled, was compoſed of ſubjects, now in open rebellion againſt the parent ſtate? In proportion as the Americans were more capable of reſiſtance, the virtue of abſtaining from ſuch an unjuſtifiable conduct would have been more conſpicuous. To extoll, therefore, the power of the coloniſts, was only to heighten the degree of their guilt, in exerting that power againſt the very ſtate which had afforded them protection through an age of infancy, and had nurtured them to manhood, at the expence of blood and treaſure.

The

The Lord *Wycombe*, [Earl of Shelburne.] As to the general charge of misinformation imputed to him by the noble Earl, he thought his Lordship should be one of the last who would venture to touch on that ground; because if he, and the noble Lords on the same side, were mistaken, it was the fault of the noble Earl and his brethren in office, who compelled them to go to the other House to seek information, or pick it up wherever they could find it; by withholding from them every degree of parliamentary communication whatever. That 70,000 men were to be employed, was no idle, floating report; for it had originated with the first lord of the treasury in the other House; and as to the river St. Lawrence being not frozen up till the middle of December, he would not be certain whether his general information did not include early in the month of November; stating it on that ground, therefore, he was certain that the person from whom he had his information would yield to none in point of experience and judgment; it would of course rest with their Lordships to determine which of the two accounts was most to be depended on. His Lordship was severe on the noble Earl, for thrusting the negociations of the peace of Aix la Chapelle into the debate. He imagined his Lordship's modesty in one event, or his prudence in the other, would have prevented him. It was very tender ground to venture on, because, whatever opinion his Lordship and his admirers might entertain on that curious business, there were many odd kind of people at this day, and a great majority of the nation at the time of the concluding that *famous* treaty, who thought the delivering so many British Peers hostages to ensure the faithful performance of a treaty, was at once a scandal to the nation, a violation of the dignity of the peerage, and a fixed stigma on the proposers of such a measure, which nothing could ever wipe off. His Lordship returned to a short consideration of the question, replied to the representation of the noble Lord, relative to the success that had been experienced in his Lordship's department, in procuring seamen and marines, which he attributed solely to the decline of our trade and commerce, that had driven so many seamen out of employment; and as combating the information of the noble Lord, that the officers of the navy were not languishing for the service, he referred to the advertisements from the board of admiralty, desiring the officers to furnish the board with an account of their places of abode, and threatening, in case of refusal, to strike them off the list. On the whole, he said, that as the treaty of Aix la Chapelle, to borrow his Lordship's

words,

word's, fell, ſo muſt the peace of this country, on the preſent melancholy and alarming occaſion, fall from the clouds.

The Earl of *Sandwich* ſaid, he ſhould not obſerve on the word "ſcandalous" uſed by the noble Lord relative to the giving hoſtages, for the due performance of the treaty of Aix la Chapelle, for he perceived the noble Lord who had uſed that very improper expreſſion was already ſorry for it; and ſo little did that tranſaction deſerve to have the epithet ſcandalous applied to it, that it was the only action of his life from which he claimed the greateſt merit; nay, he was ready to appeal to the feelings of a noble Lord now preſent [Lord Cathcart] who was one of the hoſtages, whether he thought it either ſcandalous or degrading. As to the matter ſtarted by the noble Lord relative to the notices publiſhed by the admiralty board, they had no particular direction, but were merely drawn up in the uſual office form; but as well as he could recollect, his Lordſhip was miſtaken in ſaying that a threat had been held out to the lieutenants, that they muſt expect to be ſtruck off the half-pay liſt if they did not give in an account of the places of their reſidence. He was ſure there could be no occaſion for it, becauſe out of 900 lieutenants on the liſt, in the time of profound tranquility, there are ſeldom more than 100 employed in actual ſervice.

At half an hour paſt ten o'clock the Houſe divided. For the motion 27, and 6 proxies; againſt it 60, and proxies 26. Adjourned to November 13.

November 13.

Private buſineſs. Adjourned to November 15.

November 15.

The Duke of *Grafton* ſaid he ſhould move that an humble addreſs be preſented to his Majeſty, humbly deſiring, that his Majeſty would give directions to the proper officer to lay before that Houſe an account of the number of forces ſerving in America previous to the commencement of hoſtilities. He explained the reaſons upon which his intended motion was founded; and ſaid, he thought ſuch a motion was extremely proper and neceſſary at this time, when not only the nation at large was kept in ſuch profound ignorance, but even the antient hereditary council, his Majeſty's great conſtitutional adviſers, knew no more of what meaſures were intended to be purſued than they did of what was tranſacting in any foreign cabinet in Europe. He reminded their Lordſhips of his ſentiments on a former occaſion, relative to the nature and extent of the information; that he did not want to know the detail, nor the particular means intended to be em-

employed to give their meaſures ſucceſs. He did not want, in ſhort, cabinet, but parliamentary information, ſuch as was fit and ſafe for miniſtry to diſcloſe, and neceſſary for Parliament to know, in order to direct them in their future deliberations. We know, ſays his Grace, that an army was voted laſt ſeſſion; we know that an army, ſuch as it was, commenced hoſtilities; we have heard, by common report, that conſiderable reinforcements have been ſent ſince that period; we have been informed, through the ſame channel, that the troops met with a ſevere repulſe in their firſt attempt to ſubdue the natives, and that the ſecond, in which there was a kind of trial of ſkill and courage, was not in its conſequences far ſhort of an open defeat. We do not want to be told, that from that laſt action to this inſtant, the royal army has remained cooped up in the town of Boſton, mouldering away by ſickneſs and famine, and almoſt daily waiting for its fate, that of being deſtroyed or made priſoners by a force infinitely ſuperior in point of numbers and ſtrength. In ſuch an alarming criſis, what are we to do? The noble Lords who have the direction of his Majeſty's councils have ingenuouſly confeſſed, that they have been *deceived*. Apologies of various kinds have been made: explanations have followed thoſe apologies. We have been told of ill-founded information, falſe reaſonings, miſtaken concluſions. Oblique cenſures have been thrown out upon the commanders both by ſea and land. Now, my Lords, in ſuch a ſtate of darkneſs and uncertainty, ſuch charges, ſuch blunders, ſuch miſtakes, ſuch imputed negligence or incapacity, or both, I would humbly ſubmit to your Lordſhips' judgment, whether the motion I am about to propoſe be not a moſt neceſſary one; not as a retroſpective one, implying the leaſt degree of cenſure, but merely cautionary, in order to prevent a return of the ſame fatal evils. I repeat again, that I do not deſire to know the number of men voted with an intention of comparing the eſtimate with the returns; nor to enter into any enquiry directed to have the wrong information, by which miniſters have confeſſed themſelves deceived and miſled, traced to its ſource: all I wiſh to know is, that general ſtate of things, and thoſe facts, which, while it will warn us of the difficulties we have to encounter with, will at the ſame time point out the beſt means of obviating or ſurmounting them. That can never be effected ſo well, as by learning the true ſtate of the force preparing againſt us; comparing it with our own abilities and immediate reſources, and on the whole coming to ſuch mature reſolutions, reſpecting future meaſures, whether of coercion or conciliation,

tion, as may be beſt ſuited to the dignity, national juſtice, and permanent intereſts of this country. His Grace concluded with making this motion; That an humble addreſs be preſented to his Majeſty, beſeeching him that he would give directions to the proper officers to lay before the Houſe an eſtimate of the number of forces in America at the commencement of hoſtilities in the month of April, with their ſeveral ſtations and diſtributions, in order to lay a groundwork for ſuch advice as that Houſe, impelled by a ſenſe of duty, might think fit to ſubmit to his Majeſty's conſideration.

Earl *Gower*. I riſe thus early to give a direct negative to the motion made by the noble Duke; becauſe his Grace has manifeſtly proceeded on a miſtake. He ſuppoſes this country, at leaſt I am led to conclude ſo by his reaſoning, in a ſtate of abſolute tranquillity, whereas it is confeſſedly in a ſtate of war; diſcloſing, therefore, our plans of military operations, might be productive of the very worſt conſequences. I have it from an officer of eminence on the ſpot, that whatever meaſures are determined on at this ſide the water, are known in the rebel camp much earlier than any account of them reaches the King's army. What then will be the conſequence? But that whatever information may be brought to light by this motion, and ſeveral others which I dare ſay will follow, if it ſhould meet with your Lordſhips' approbation, the rebels will be appriſed of. The plans we intend to purſue will thereby be made known, and the provincials furniſhed with the readier means of defeating them. Beſides, I cannot ſee what poſſible good this motion can anſwer in any light, even in the ſtricteſt conformity to the ſentiments the noble Duke declares to profeſs, unleſs he makes it a leading queſtion to a ſtring of propoſitions of a ſimilar nature, tending to lay open the ſpecies of information which, as one of his Majeſty's miniſters, I look upon myſelf bound for the reaſons before aſſigned, moſt ſtrenuouſly to withhold. But, my Lords, if I have very cogent reaſons for oppoſing the motion ſingly on the ground I have now ſtated, I have ſtill much ſtronger motives for oppoſing it on principle; I mean the dangerous precedent it might eſtabliſh in the further progreſs of this important buſineſs, that of the legiſlative forcing itſelf, and breaking in on the executive power; a mode of conducting buſineſs, which if it ſhould ever prevail, will of courſe totally obſtruct the meaſures of government. On the other hand, if adminiſtration is ſupported by the confidence of Parliament, by a proper dependence and reliance that the powers entruſted to them will be exerted *with ſuitable* ability and fidelity, I make no doubt, from the

the preſent diſpoſition of a great number of people in that country, who want only to be protected to openly avow themſelves the friends of Great Britain, that this arduous affair will be finally brought to a fair, happy, and honourable iſſue.

The Earl of *Dartmouth*, againſt the motion; ſaid it was the moſt extraordinary propoſition he ever heard; that now, when it could be no longer doubted that we were in an actual ſtate of war, to have the ſtrength, number, and deſtination of our troops laid open to the Americans, for this would certainly be the caſe, was ſuch an idea as he could not have thought poſſible for any noble Lord in that Houſe ſo much as to conceive. He confirmed the aſſertions of the noble Earl who ſpoke laſt, that every fact or information called forth by this motion, would be inſtantly tranſmitted to America, and would conſequently teach them to riſe in their demands on one hand, or cauſe them to take ſuch meaſures of reſiſtance as would be moſt effectual towards defeating whatever might be determined on in this country. He obſerved, if the Duke's motion was intended to reach no further than it profeſſed, it might be anſwered with great ſafety, and with very little trouble. The number of effective men in each regiment was well known; the number of battalions was ſeventeen; there were upwards of 300 ſick in the hoſpitals, and about 800 non-effective, which two laſt items deducted out of the returns, ſuppoſing them to be complete, would give an exact amount of the troops previous to the commencement of hoſtilities. There were ſome detachments out at the time, but they were not very conſiderable; ſo that the whole of the force, at the time the noble Duke's motion pointed to, might be very eaſily aſcertained.

The Lord *Camden*. The noble Earl in the blue ribbon, [Earl Gower] and the other noble Earl, very lately a ſecretary of ſtate, [Earl of Dartmouth] ſeem to oppoſe the preſent motion on two grounds; firſt, as it may be the means of giving intelligence to the provincials relative to the ſtate, condition, and number of our troops in America; and ſecondly, as this motion, ſhould it receive your Lordſhips' approbation, may be productive of ſeveral others directed to the ſame object. I heartily approve of their Lordſhips' caution and foreſight; for I believe, though I have no reaſon to know it, as the noble Duke has not communicated his intentions to me, that their Lordſhips' fears are well founded. I dare ſay the noble Duke, ſhould he carry his firſt point, does not mean to reſt his enquiry there, and proceed no further. I rather think he will

will go on: I am ſure the preſent ſituation of affairs, both in England and America, requires that he ſhould. The noble Lords have talked of the accounts of meaſures agreed on in this country, being ſo early known in the rebel camp. I ſhould be glad to know what ſpecies of information their Lordſhips allude to. They will not ſay it is parliamentary information, becauſe no rebel camp exiſted at the time we laſt ſat here, at leaſt, ſo as to reach it any conſiderable time after Parliament roſe. If it be a cabinet information, that is a matter we are, it ſeems, to have nothing to do with. But there is ſomething extremely curious in another part of this argument: the noble Lords in office tell you, that by giving an account of the number of troops in Boſton and its neighbourhood, previous to the affair at Lexington, we ſhall furniſh the rebels with intelligence of a very dangerous nature. What! Surely not, if the rebel camp be ſo very well informed; much leſs ſo, if the enquiry goes only to a point, I ſuppoſe well known to every man this inſtant within the province of Maſſachuſet's Bay. While I am up, my Lords, you will give me leave to ſay a few words to the general queſtion. The noble Earl, ſo lately one of his Majeſty's ſecretaries of ſtate, has informed us, that we are in a ſtate of war, that ſecrecy is of courſe neceſſary. I deny that we are. Peace is ſtill within our power; nay, we may command it. A ſuſpenſion of arms on our part, if adopted in time, will ſecure it for us; and I may add, on our own terms. From which it is plain, as we have been the original aggreſſors in this buſineſs, if we obſtinately perſiſt, we are fairly anſwerable for all the conſequences. I again repeat, what I often urged before, that I was againſt this unnatural war from the beginning. I was equally againſt every meaſure from the inſtant the firſt tax was propoſed to this minute. When, therefore, it is inſiſted, that we aim only to defend and enforce our own rights, I poſitively deny it. I contend, that America has been driven, by cruel neceſſity, to defend her rights from the united attacks of violence, oppreſſion, and injuſtice. I contend, that America has been indiſputably aggrieved. Perhaps, as a domineering Engliſhman, wiſhing to enjoy the ideal benefit of ſuch a claim, I might urge it with earneſtneſs, and endeavour to carry my point; but if, on the other hand, I reſided in America, that I felt or was to feel the effects of ſuch manifeſt injuſtice, I certainly ſhould reſiſt the attempt with that degree of ardour ſo daring a violation of what ſhould be held dearer than life itſelf, ought to enkindle in the breaſt *of every freeman*. Here, my Lords, I ſpeak as an American,

rican, or as one reſiding in America, who, finding himſelf deprived of his liberty, and his property attacked, would reſiſt, and with all his might repel the aggreſſor. On the other hand, as living in this country, and ſubject to the laws of it, I always have, and I hope always ſhall, pay a proper obedience to them. But, my Lords, purſuing the ideas of a native American, or a perſon reſiding in that country, what muſt be the ſenſe they feel of the repeated injuries that have for a ſucceſſion of years paſt been heaped on them?—To have their property, under the idea of aſſerting a right to tax them, voted away by one act of Parliament, and their charters, under an idea of the ſupreme authority of the Britiſh legiſlature, ſwept away by another vote of Parliament. Thus depriving them, or rather claiming a right to diſpoſe of every ſingle ſhilling they are worth, without one of them being repreſented by the perſons pretending to exerciſe this right; and thus ſtripping them of their natural rights, growing out of the conſtitution, confirmed by charter, and recognized by every branch of the legiſlature, without examination, or even without hearing. I will fairly appeal to your Lordſhips, if there be one among you, could ſubmit to ſuch intolerable oppreſſions; nay further, if you would not all unite as one man, were you in ſuch a ſituation, to oppoſe the execution of ſo lawleſs and unjuſt a power. I do not mean, my Lords, to go through the whole of this buſineſs. I reſerve that for ſome future day: I dare ſay I ſhall have many opportunities, and I pledge myſelf to your Lordſhips, on that day, that I will prove Great Britain has been the aggreſſor; that America has only acted on the defenſive, and that were I an American, and wanted a proper ſenſe of the injuries attempted to be exerciſed towards me, that I ſhould only think them juſtifiable ſo far as I wanted ſpirit to reſiſt, and was conſcious to myſelf, that I was undeſerving the enjoyment of any privilege, that I was mean, cowardly, or abject enough to tamely relinquiſh.

Lord *Lyttelton*, after objecting to the motion, on the ground that it would be the means of conveying information to the rebels, remarked with ſome ſeverity on the conduct of the noble and learned Lord who ſpoke laſt. But if the preſent motion be objectionable, on the ground it now ſtands, unconnected with any other, how much more ſtrongly ought you to reſiſt it, when the learned Lord informs you, that it is to be followed by ſeveral more of a ſimilar nature. This being clearly the real intention of the noble Duke who made the motion, I truſt, if any doubt remained relative to the confined view of the queſtion, as it

ſimply ſtands before your Lordſhips, that this information will be a ſufficient motive with your Lordſhips to reject this in the firſt inſtance. The noble and learned Lord, digreſſing from the queſtion immediately before us, entered into a general view of matters of a much more important and weighty nature. His Lordſhip tells you, that Parliament were the firſt aggreſſors; that the Americans are indiſputably aggrieved. Is this, my Lords, a language fit to be endured within theſe walls? Are you to ſuffer the acts of the Britiſh legiſlature, declared by the King, Lords, and Commons, to be branded with almoſt every opprobrious term that can poſſibly be conceived? The noble and learned Lord tells you, that the Parliament has acted unjuſtly, oppreſſively, nay tyrannically; that the Americans are juſtified in their reſiſtance; that if he was an American, or reſided there, he would be one of the firſt to reſiſt. I will venture to affirm to your Lordſhips, that if he was there, he could not effect the thouſandth part of the miſchief, we may fairly preſume, what he has ſaid this day will produce; for you may reſt aſſured, that there is not a ſyllable of his ſpeech that will not get into the news-papers, and conſequently make its way to America. They will in thoſe accounts find the ſpeech of a moſt learned and eminent lawyer, famed in his profeſſion, confirming them in every ſentiment of rebellion and reſiſtance to the authority of the mother-country. They will find the legiſlature of Great Britain charged with tyranny, oppreſſion, and uſurpation. They will find themſelves branded as cowards, poltroons, and tame, abject ſlaves, unworthy of the liberties they enjoy, if they do not reſiſt. The noble and learned Lord, while he ſets up to be ſo ſtrong an advocate for liberty, ſays ſomething I do not well comprehend, unleſs it be with a view ſtill the more completely to blacken and vilify this country. His Lordſhip tells you, as an overbearing and domineering Engliſhman, he ſhould like to triumph and trample on the liberties of America. I do not pretend to exactly ſay what his native impulſes may be in that reſpect; but I will venture to aſſert, that he thinks very differently from the majority of this Houſe, and the majority of this nation; neither of which want to invade the rights of America, much leſs trample on its liberties. The noble Lord ſays, in the ſame breath, that, as an American, he would reſiſt ſuch an invaſion. But as it is not the intention of Great Britain to do the one, ſo I truſt ſhe will never deſiſt, till ſhe obtains a full and complete obedience and ſubmiſſion to the *exerciſe of her* conſtitutional power. On a former occaſion,

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having only ſaid that thoſe who were for ſupporting the unnatural claims of America, were in fact ſurrendering the rights of the Britiſh Parliament into the hands of our rebellious ſubjects; I remember I was called to order, and ſeverely reprehended by one or two noble Lords on the other ſide. In my opinion I was ſubſtantially right; but allowing it to be otherwiſe, how much more blame-worthy is it for the noble Lord to riſe and condemn acts of Parliament, the laws of the land, and the conſtitutional ſenſe of the whole nation? I truſt, the noble and learned Lord already ſees the impropriety of his conduct, how very unparliamentary it is, how diſreſpectful to the body of which he is a member, how injurious to Parliament at large; but above all, that he will think of the conſequence, and in time retract his words; otherwiſe he may be aſſured, thoſe exceptional, thoſe miſchievous expreſſions, will ſhortly be echoed through all the papers, and be wafted over the Atlantic to rebellious America by the firſt conveyance. Should the noble and learned Lord refuſe to retract, I ſhall be in the judgment of your Lordſhips, whether or not, to avoid the conſequence I have pointed out, he ſhould not be obliged to explain himſelf, according to the uſual and eſtabliſhed mode of parliamentary proceeding.

Lord Viſcount *Dudley*. I think the noble and learned Lord has tranſgreſſed every rule of debate I ever remember to have ſeen obſerved in this Houſe. Not ſatisfied with condemning the meaſures of adminiſtration in general, he tells you very plainly that America has been oppreſſed, and Great Britain are the aggreſſors. He contends that reſiſtance is juſtifiable, and that our ultimate views are views of tyranny and deſpotiſm. This, I confeſs, is ſpeaking pretty plainly; but I preſume his Lordſhip does not mean by ſuch palpale miſrepreſentations, to perſuade us to adopt his opinions. On the contrary, I am ſatisfied, that America, in this conteſt, only aims at independence: and that every conceſſion we may be induced to make, will only lay a foundation for new claims. In the courſe of this buſineſs I have obſerved, that much ſtreſs has been laid by the noble Lords on the other ſide of the Houſe, that ſhould our preſent diſputes with America be ſpun out to any length, our manufactures muſt be ruined. Now, my Lords, I muſt inform you of two facts: one is, if that were the caſe, no perſon would feel the effects ſooner than myſelf; the other is, that nothing of the kind has been hitherto felt, at leaſt in my neighbourhood, which is deeply concerned in the American trade. I live in the midſt of a great manufacturing country,

the trade of which depends a great deal upon their intercourſe with America; and yet, I can ſay, from the beſt information I have been able to collect, that no decline or ſtagnation in any of the great manufactures has been yet felt. It is true, a want of employment among the nailors may poſſibly be a conſequence of our preſent diſputes with America; but if it ſhould, I truſt that adminiſtration will deviſe ſome mode of alleviating the miſeries of men manifeſtly ſuffering in the cauſe of their country.

The Duke of *Richmond*. The noble Lord who ſpoke laſt has at length confeſſed that the effects of our American war begin to be already felt, particularly among the nailors. It is not many days ſince the ſame noble Lord aſſured us with great confidence, that the manufactures in his neighbourhood were in a moſt flouriſhing thriving ſtate; that the people were fully employed; and that new channels for diſpoſing of the commodities formerly ſent to America were happily opened. What does his Lordſhip now tell you? that a ſtagnation at leaſt in one branch has commenced, and very modeſtly deſires adminiſtration to deviſe ſome means of compenſating the ſufferers. This, I muſt own, has to me a very odd ſound. We have already voted four ſhillings in the pound; our manufactures are on the decline, that muſt of courſe create a deficiency in the funds; the manufacturers will want employment, and ſomething muſt be done for them. I think your Lordſhips ought to conſider this matter in a very ſerious light before you proceed a ſtep further. You ſhould view the meaſures at large, and fairly conclude on the conſequences taken together. The noble Earl lately in office (Lord Dartmouth) told us the laſt day we met here, that we were to have peace with America; that it was the fixed reſolution of adminiſtration to adopt conciliatory meaſures. Now, what does he tell your Lordſhips? That we are in a ſtate of war; that ſecrecy is the life and eſſence of ſuch a ſtate; that we ſhould ſtudiouſly conceal what every body knows in one inſtance, and withold ſecrets from this Houſe long ſince grown ſtale in the rebel camp. The principle which ſeems to direct the policy of the noble Lord, is no leſs worthy of animadverſion. He has no information himſelf, his friends have none, and he will hear none. In fact, his Lordſhip is as careful to keep every degree of information from this Houſe, as from the generals Lee, Putnam, or Waſhington; for when Mr. Penn delivered him the petition he did not think proper to aſk him a ſingle queſtion; when Mr. Penn was on the laſt day examined at *your Lordſhips* bar, his Lordſhip ſhewed a ſimilar averſion to

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any thing which might wear the moſt diſtant appearance of looking for information. While I am up, and ſpeaking on the ſubject of that day's examination, I cannot avoid ſaying a few words on the conduct of one or two noble Lords. From the time that the Houſe agreed to examine Mr. Penn, till the day he was examined, I determined to have no ſort of communication with him; yet, from what had fallen from the noble Earl in the blue ribbon, and the noble Earl lately in office, I wiſhed to avoid aſking that gentleman any queſtions which might probably be diſagreeable, or embarraſs him. Accordingly, when I came into the Houſe, having previouſly drawn up a liſt of ſuch queſtions as I thought proper to put to him, I went below the bar and delivered him the paper, deſiring him to object to ſuch as he thought proper. He kept the paper a few minutes, and returned it to me with an aſſurance, that the liſt contained not a ſingle queſtion he was not ready to anſwer. In this tranſaction, my Lords, I flattered myſelf that I had acted with all imaginable caution and candour. Yet what was the conſequence? but that the noble Earl who preſides at the head of the admiralty, charged me with previouſly conſulting the witneſs, with an intention, I preſume, to fabricate a particular kind of evidence on purpoſe to miſlead this Houſe. Such language was, in my opinion, extremely unparliamentary, and deſerving of your Lordſhips' diſcountenance and diſapprobation: yet, after I had explained the matter nearly in the ſame words I do now, what ſhall we ſay to the unjuſtifiable conduct of another noble Lord [Lord Lyttelton] who again repeated the ſame charge, mixed with a direct imputation, that the witneſs gave a partial teſtimony? But this is the noble Lord, my Lords, who ſtands up ſo warmly for parliamentary order and the decorum of debate, and ſo ſeverely condemns the noble and learned Lord on my right hand for being guilty of what he calls a violation of it. It is true, I always hear that noble Lord with infinite pleaſure and delight; he ſpeaks ſo finely, ſo harmoniouſly, his elocution is ſo charming, and his action ſo juſt and ſtriking, that he affords me no ſmall degree of entertainment, ſcarcely Mr. Garrick himſelf more; yet before the noble Lord is ſo very ready to cenſure others in reſpect of tranſgreſſions, ſuch as he now attributes to the learned and noble Lord, he ſhould recollect how ready he is himſelf to offend in a ſimilar manner. His Lordſhip has laboured greatly to reconcile the learned Lord's expreſſions to each other. Your Lordſhips, I dare ſay, are already perfectly ſatisfied of his ability in that way. He has a knack of reconciling very ſtrange things indeed! I hope

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he will be able to reconcile his conduct on the firſt day of the ſeſſion, and the part he has ſince taken. I need not hope it, I may reſt aſſured that his Lordſhip is able to reconcile greater difficulties and contradictions than even that itſelf. His Lordſhip will, however, excuſe me, if I think his ingenuity would be better employed in immediate relation to himſelf, than about any matter reſpecting the noble and learned Lord. On the whole, my Lords, I cannot help obſerving, that the conduct of adminiſtration has been very extraordinary. The noble Earl in the blue ribbon has told you he has been deceived. The noble Earl at the head of the admiralty has told you that he deceived your Lordſhips relative to the naval arrangements of laſt year; leſt if he had made the neceſſary demands, you would have witheld you ſupport. A noble Lord in the other Houſe pledged himſelf, that an army of 10,000 men would look America into ſubmiſſion. The ſame noble Lord has again undertaken to perform the ſame taſk with 25,000 men. What then in ſuch a ſtate of impoſition, confeſſed weakneſs, and contradiction, has your Lordſhips to direct you? Why the noble Earl in the blue ribbon deſires you, very gravely, to place an implicit confidence in adminiſtration. He tells you, that no miſcarriage can happen, if you will truſt him and his brethren in office. This is ſpeaking pretty confidently, and with no ſmall degree of hazard. I preſume his Lordſhip is not ignorant of the true purport of ſuch language in this Houſe; it is no leſs than fairly engaging in meaſures, the conſequences of which the miniſters heads are to be anſwerable for. If, therefore, the preſent motion ſhould be over-ruled, and that this implicit confidence in miniſters ſhould be deemed adviſable, I hope that the doctrine will be accepted of in all its parts; truſt the executive power, and let the executive power be eventually reſponſible to the legiſlative for all the conſequences.

The Earl of *Dartmouth*. I am much obliged to any noble Lord who riſes to remind me of any thing I have ſaid in a former debate: I am doubly ſo to the noble Duke who ſpoke laſt, for aſſiſting my memory to words ſo juſtly expreſſive of my real ſentiments. I ſaid it was the intention, the moſt earneſt wiſh of adminiſtration, to adopt meaſures of conciliation, nay of conceſſion. I avow myſelf ſtill of the ſame opinion. I affirmed early in this debate, that both countries are in a ſtate of war; that ſecreſy reſpecting our operations, and the ſtate of our troops, was become neceſſary. I think in all this there is nothing verſatile nor contradictory. If abſolute *war* were finally agreed on, I preſume his Grace would not *contend that* peace would not be the ultimate object. How

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then can the noble Duke conclude, from my ſaying that this country is in a ſtate of war, that conſequently the views of adminiſtration were directed to the conqueſt of America; when, in the ſame breath, I added, that the armaments, both by ſea and land, were made chiefly with an intention of protecting ſuch in America as continue well affected to the mother country, and reſtoring them to the liberty of acting conformably to their own ſentiments? I repeat again, that I have no ſort of diſinclination to gratify the curioſity of the noble Duke who made the motion, were the information to be confined to the object barely of the preſent queſtion; but underſtanding from the learned and noble Lord who ſpoke early in the debate, that other information of the ſame nature will be deſired, I muſt, for that reaſon, give it my hearty negative.

Lord Viſcount *Dudley*. I do not retract my former aſſertion, that the manufactures in my neighbourhood were never in a more flouriſhing condition; I am ſure they never were; and one good reaſon may be aſſigned, why the American trade in general ſhould have been briſker for ſome time paſt than uſual, becauſe the people in America, foreſeeing the conſequences of the non-importation and non-exportation agreement, provided accordingly, which cauſed an encreaſed demand. I have made it my buſineſs to enquire, and from the moſt authentic information, have no doubt of the truth of what I affirm. The noble Duke has, therefore, miſtaken my meaning. Nay, further, the very nail-making buſineſs has not yet felt any ſtagnation, at leaſt the people employed in that buſineſs have had yet no reaſon to complain. But, my Lords, ſaying this, I am to inform your Lordſhips, that that may not much longer continue to be the caſe; for I believe the fact truly is, that the great nail manufacturers, long ſince the demand has ſlackened, have ſtill continued to employ their men; the buſineſs, as reſpecting the journeymen, has of courſe been equally briſk. But, my Lords, there may be a time when the inconvenience, or rather the impracticability of ſuch a conduct may arrive; I mean when the great manufacturers can no longer, with juſtice to themſelves, accumulate a commodity for which they have no vent. It is to guard againſt the conſequence ſuch a period would produce, I now ſay, that adminiſtration would do well to interpoſe, and endeavour to find the journeymen employment.

The Lord *Camden*. The noble Lord who ſo ſeverely animadverted on my conduct reſpecting certain opinions maintained by me in the courſe of my ſpeech, having offered ſo little

little immediately directed to combat the juſtice and truth of thoſe opinions, I might well ſtand excuſed in your Lordſhips judgment, as well as my own, in not riſing to reply to them, if I were not doubtful it might be conſtrued into puſillanimity, or a conviction that I had acted improperly, and was reſolved to ſubmit to his Lordſhip's cenſure in ſilence. When, therefore, his Lordſhip makes a general charge of inconſiſtency againſt me, I tell him that I think I am perfectly conſiſtent; that I might aſſert one thing as an Engliſhman, and reſiſt it as an American. The noble Lord ſays, it is indecent and unparliamentary to arraign an act of Parliament, unleſs it be on a motion for its repeal. I never knew any ſuch a rule of debate obſerved in either Houſe of Parliament. If there be, I contend that it is eſſentially deſtructive of the freedom of debate, and ſhall never be obſerved by me, till I am fairly tied up by a vote of your Lordſhips to that purpoſe. But if the rule were a good one, only ſee how it would operate in the preſent caſe—the queſtion ſubſtantially before us is, whether or not the acts of the Britiſh Parliament reſpecting America be founded in juſtice, and be conſonant to the principles of this conſtitution. Frame ten, or ten thouſand motions, they will at laſt come to this queſtion. What then is the purport of the noble Lord's argument? I allow the true queſtion relates ſolely to the juſtice and wiſdom of thoſe acts; you may ſay any thing elſe you pleaſe, but on them you muſt be ſilent. I appeal to your Lordſhips, if this be not the natural and obvious meaning of the cenſure attempted to be paſſed on my words, and the reſtraint that would be the conſequence, ſhould your Lordſhips think I deſerved it.—No, my Lords, till I am fairly precluded from exerciſing my right, as a Peer of this Houſe, of declaring my ſentiments openly, of diſcuſſing every ſubject ſubmitted to my conſideration with freedom, I ſhall never be prevented from performing my duty by any threats, however warmly and eagerly ſupported, or ſecretly ſuggeſted. I do aſſure your Lordſhips, that I am heartily tired of the ineffective ſtruggle I am engaged in. I would thank any of your Lordſhips who ſhould procure a vote to be paſſed for ſilencing me. It would be a favour more grateful than any other it would be in the power of your Lordſhips to beſtow; but until that vote has received your Lordſhips ſanction, I muſt ſtill think, and ſhall uniformly continue to aſſert, that Great Britain was the firſt aggreſſor; that moſt, if not all, of the acts were founded and framed in oppreſſion; and that if I were an American, I ſhould reſiſt *to the laſt ſuch* manifeſt exertions of tyranny, violence, and injuſtice.

injuſtice. When I arraign thoſe acts, I would willingly draw a line, diſtinguiſhing theſe which have created the preſent troubles from thoſe that preceded them; becauſe the latter, I am authorized to ſay, did not directly operate, though undoubtedly, they laid the foundation for the former. Saying this, however, I contend that there has not not been a ſingle ſtep nor conſequence, throughout this whole buſineſs, that did not originate from the principle of laying taxes on America, for the purpoſe of raiſing a revenue. That, my Lords, is the greateſt grievance, the ſource and parent of every other. But coming more immediately to the matter I roſe to explain: Tea was ſent to Boſton under the idea, as was pretended, of enforcing a commercial regulation. The tea was deſtroyed by a number of men in diſguiſe, aſſiſted by a mad rabble. An act, at the time diſavowed by the whole province in their legiſlative and conſtitutional capacity; and never, from that day to this, offered to be juſtified, either in writing or diſcourſe. How did Great Britain act on this occaſion? Without making any demand of reparation; without making a ſingle enquiry, or calling for a ſingle evidence to prove the delinquency of a ſingle inhabitant of the province of Maſſachuſet's Bay, you ſhut up its port, you deprived thouſands of the means of living, of the fruits of their honeſt induſtry, though you were convinced they diſapproved of the act as much as yourſelves. Beſides, you robbed people of their property, by rendering their landed eſtates, their houſes, wharfs, &c. uſeleſs. If this was not injuſtice, the moſt wanton in its nature, and the moſt aggravated in its circumſtances, that was ever exerciſed in a free, nay, in a deſpotic country, I am ſure I know not what tyranny or deſpotiſm is. Such was the complexion of your next act, that of ſtripping the province of its charter, without previouſly proving that the powers delegated by it were abuſed and legally forfeited; in fine, without examination or enquiry of any kind whatever. And laſtly, that laſt inhuman act of endeavouring to ſtarve half a million people into compliance, and thereby involving the guilty and innocent in one common puniſhment. Theſe, my Lords, are ſome of the few reaſons why I think that Great Britain has been the aggreſſor; that ſhe has been cruel, oppreſſive, unjuſt, and unrelenting; and theſe, my Lords, are the motives which would induce me, were I an American, to reſiſt them as the moſt open and dangerous attacks upon my liberty, property, and, in ſhort, every thing I held dear as a freeman.

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The Lord *Mansfield.* My Lords, I did not intend to ſpeak to the queſtion, for you will perceive by my voice that I am not well. If, therefore, I ſhould not expreſs myſelf ſo clearly as I could wiſh, I will truſt to your indulgence. The queſtion before your Lordſhips is ſimply, whether it will be proper to give the papers now called for. If the giving them to the Houſe will be productive of no inconvenience, and give neceſſary information, I think the motion ſhould be complied with. On other hand, if the motion will anſwer no one good purpoſe, and may poſſibly diſcloſe matter proper to be kept ſecret, I think the deſired information ought to be withheld. Theſe, my Lords, are the objects of the motion; but I perceive the debate has taken a very different turn. The queſtion at large has forced itſelf into diſcuſſion, and I foreſee ever will, till it is decided one way or the other. The bad conſequences of planting northern colonies were early predicted. Sir Joſiah Child foretold, before the Revolution, that they would, in the end, prove our rivals in power, commerce, and manufactures. Davenant adopted the ſame ideas, foreſaw what has ſince happened; he foreſaw, that whenever America found herſelf of ſufficient ſtrength to contend with the mother country, ſhe would endeavour to form herſelf into a ſeparate and independent ſtate. This has been the conſtant object of New England almoſt from her earlieſt infancy. Their ſtruggles, in the reign of King William, compelled that prince to recall their former charter, and give them a new one; and, towards the concluſion of his reign, to get an act paſſed, that no law enacted in the colonies ſhould be valid, if contrary to any law at the time exiſting in England. Thoſe diſputes ſcarce ſubſided from that day to this. I remember, in the year 1733, Mr. Talbot (afterwards chancellor) propoſed a ſet of reſolutions in the Houſe of Commons, in which the nature of the diſputes then ſubſiſting were directly pointed at, and ſimilar doctrines to thoſe maintained at preſent by the Britiſh Parliament fully aſſerted. So matters continued till the year 1756, when a new adminiſtration was formed, brought about by a coalition; in effecting which I had the honour of being an inſtrument. I remember at that time the miniſtry were extremely unwilling to engage in a war on account of America; and, I believe, would have avoided it, if ſome circumſtances had not intervened, which gave another turn to the diſputes then ſubſiſting. Not that I would be underſtood to ſay, that America was not the true cauſe of the war then undertaken, I am certain it was. A vulgar opinion prevailed, *that we armed in* defence of Hanover; the contrary was certainly

tally the caſe. Whatever form the war might have afterwards aſſumed, the preſervation of America was what originally brought us into it. At the concluſion of the peace, the inconveniencies which have ſince ariſen were then partly foreſeen; but they were, however, balanced with a ſuitable degree of wiſdom againſt thoſe which might have been produced by embracing the other part of the alternative. If Canada was reſtored to France, it would have laid a foundation for future diſputes, and future wars; it would have been the ſource of endleſs contention between both nations. This was the preciſe ſtate of the caſe, previous to the laying on the ſtamp act. An idea then prevailed, that America, from her increaſed power and ability to pay, ſhould contribute to alleviate the burdens ſhe had been inſtrumental in loading this country with. I ſhall not pretend to ſay how proper ſuch a meaſure might have been. As things have ſince turned out, I am ſorry the ſtamp act ever paſſed; however, no perſon at the time ſo much as offered to ſay a word againſt it. The next year the declaratory law was paſſed, without any oppoſition. In a year after, the noble and learned Lord who ſpoke laſt, being then at the head of his Majeſty's councils, and preſiding on the woolſack, was preſent when the port-duties were laid on, and never ſaid a word againſt them. I am ſorry they were ever laid on. Much about the ſame time, the act for extending the act of Henry the Eighth, relative to the trial of perſons for offences committed out of the realm, was paſſed: the ſame learned Lord retained his former ſituation, and the noble Duke, who made the motion this day, then preſiding at the head of the Treaſury, were both in the cabinet, and not a word was ſaid then againſt the meaſure. I am ſorry that bill was paſſed. And, laſtly, the very bill the learned Lord hath this day beſtowed ſo many hard names upon, relative to ſtopping up the port of Boſton, was paſſed without any manner of oppoſition. Of the ſucceeding acts I ſhall ſay nothing, but that if the others were juſtifiable, I think the latter were equally ſo. I do not pretend to ſtate the matter accurately, but as well as my memory is able to aſſiſt me; I do not think that America complains of particular injuries ſo much as ſhe does of the violation of her rights. If I do not miſtake, in one place, the congreſs ſum up the whole of their grievances in the paſſage of the declaratory act, which aſſerts the ſupremacy of Great Britain, or the power of making laws for America in all caſes whatſoever. That is the true bone of contention. They poſitively deny the right, not the mode of exerciſing it. They would allow the King of Great Britain

tain a nominal ſovereignty over them, but nothing elſe. They would throw off the dependency on the crown of Great Britain, but not on the perſon of the King, whom they would render a cypher. In fine, they would ſtand in relation to Great Britain as Hanover now ſtands; or, more properly ſpeaking, as Scotland ſtood towards England, previous to the treaty of Union. His Lordſhip then entered into a variety of detailed reaſonings, to ſhew that the views of America were directed to independence; that Great Britain could not concede without relinquiſhing the whole, which he ſuppoſed was not intended; and that conſequently, any meaſure of conciliation, in the preſent ſituation of affairs, and the declared intentions of America, would anſwer no end, but furniſhing her with grounds to erect new claims on, or to hold out terms of pretended obedience and ſubmiſſion.

Lord *Wycombe* [Earl of Shelburne] I do not pretend, particularly at this late hour, to follow the noble and learned Lord over the very wide circuit he has taken. So much, however, I can affirm, that were I as well ſatisfied, as his Lordſhip ſeems to be, that America aims ultimately at independence, I ſhould be one of the firſt in this Houſe, who would be for adopting the moſt firm and deciſive meaſures; not having yet brought myſelf to approve of the very extraordinary propoſition, of breaking off all political or commercial connection with that country. His Lordſhip has ſtated the caſe of Ireland, as applying to the ſubject of the preſent unhappy diſputes, and was pleaſed to allude to ſomething which dropped from me the laſt night on that ſubject, inferring from thence, that as Ireland is a ſubordinate kingdom, dependent on the crown of Great Britain, the true dependence of America is thereby clearly marked out, as diſtinguiſhed from thoſe claims of America, which maintain that their obedience and ſubmiſſion reach no farther than to the mere perſon of the prince upon the throne. Taking the premiſes to be true, I perfectly coincide with his Lordſhip; for I always have, and ever ſhall think, that both Ireland and America are ſubordinate to this country; but I ſhall likewiſe retain my former opinion, that they have rights, the free and unimpaired exerciſe of which ſhould be preſerved inviolate. The principal, the fundamental right, is that of granting their own money. The Iriſh have always exerciſed that right uninterrupted, ſo has America till very lately; and that this invaluable privilege is going to be wreſted from them, I take to be the true grievance; remove that away, and every thing, I dare ſay, will ſoon return *into its former* channel. I do not here promiſe to meet

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the ideas of every perſon on the other ſide of the Atlantic indiſcriminately. There may be ſome factious, ambitious, turbulent ſpirits there. I would be underſtood to ſpeak here of the prevailing governing diſpoſitions of both countries. There may, on the other hand, be many people in this country ſo miſtaken as to deſire a revenue; but what I mean is, that if the claim of taxation was fairly relinquiſhed, without reſervation, I am confident the ſupremacy of the Britiſh Parliament would be acknowledged and acquieſced in by America, and peace between both countries be once more happily reſtored.

The noble and learned Lord ſpeaks ſomething concerning a coalition, or union of opinion on ſome leading points. I find myſelf in an aukward ſituation. I do not, for my part, wiſh to become a member of adminiſtration. I am an independent man, and mean to continue ſo; but if any general plan ſhould be adopted, I ſhould, in the firſt inſtance, put in my claim to reſtrain the power and mode of exerciſing the conſtitutional plan of royal requiſition, ſo as to prevent the crown, or the miniſters for the time being, from employing it to purpoſes of finance and patronage, which might tend to throw ſtill more weight and influence into the hands of government, already grown much too formidable and powerful. The fatal effects of this encreaſed ſtrength in the crown has been ſeverely felt in another kingdom. It was to guard againſt it, in ſome meaſure, that the act paſſed in the reign of king William, for limiting the army ſerving in Ireland to 12,000 men. Though the army, till very lately, was continued at that number, other means were deviſed to employ the power of the crown in that country, to purpoſes operating nearer home. It is therefore on the hint now thrown out by the learned and noble Lord, that I lay in my claim thus early to avert, or rather to totally provide preventatives againſt, the miſchiefs to be dreaded from encreaſing the power of the crown, on the footing of any plan of conciliation which may be propoſed and agreed on ultimately between Great Britain and America. The noble and learned Lord will, I truſt, excuſe me, when I ſet him right relative to a fact, which he has mis-ſtated or forgot. His Lordſhip ſays, the Boſton port-bill paſſed without any oppoſition. I beg leave to remind his Lordſhip, that it was warmly oppoſed: that I, among ſeveral other Lords who entertained ſimilar ſentiments, teſtified our diſapprobation in the warmeſt and moſt deciſive terms; nor ſhall I be ever reconciled to that bill, nor the charter bill that accompanied it. They were both founded in manifeſt injuſtice, to

men unheard in one inſtance, and to create a forfeiture, without any delinquency proved in the other, were ſuch acts as muſt continue to diſgrace our ſtatute books, till they are repealed.

I truſt your Lordſhips will indulge me with a word or two to the queſtion. The noble Earl in the blue ribbon, who ſpoke early in the debate, and the noble Lord lately in office, ſpeak as if ſuch information as that now deſired, was not only improper to be given, but even indecent and unparliamentary to be aſked. I proteſt to your Lordſhips, I never heard till this night ſo extraordinary an idea maintained. In the firſt place, their arguments prove the very reverſe: they prove, that all ſecreſy will be nugatory, for that the rebels are better informed than the King's troops. But taking the fact to be directly otherwiſe, what would their reaſoning amount to? Keep every thing a profound ſecret, if any thing, at leaſt any thing material, tranſpires, our ſchemes will be defeated. Now, for my part, I by no means approve of ſuch a mode of preceeding, even if engaged in a foreign war with our natural and inveterate enemies. By the accounts tranſmitted down to us, this was not the conduct purſued by the immortal Marlborough. He always came over in the winter, and inſtead of wiſhing to conceal from his enemies, he generally ſtated minutely the meaſures purſued during the preceding campaign; the operations, and their actual or probable effects. His Grace did not even reſt contented here, for he never failed to ſketch the great outline of the ſucceeding campaign, and the number of troops it would be neceſſary to bring into the field. He was generally as good as his word, whatever he promiſed he punctually performed; and never in the courſe of ten ſucceſſive campaigns, did he once come to Parliament to tell he had been deceived; or that he had ſuffered in the leaſt by his communications to Parliament.

The Duke of *Richmond*. The noble and learned Lord who ſpoke late in the debate, has entirely forgot the circumſtances relative to the paſſing of the Boſton port-bill; and the oppoſition it met with from this ſide of the Houſe. I muſt put his Lordſhip in mind, that it was very ſtrenuouſly oppoſed; and that upon the very ground urged this day in debate. I remember very well too, that the noble and learned Lord foretold, that it would meet with no oppoſition from the inhabitants of Maſſachuſet's Bay, and preſſed unanimity as the beſt means of enſuring it ſucceſs. It was on the faith of thoſe aſſurances, that the bill was not *oppoſed on the* third reading. It was treated no more than

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as a matter of mere form, the bill was to be paſſed, the tea was to be paid for, and tranquillity was to be the conſequence. How miſerably thoſe perſons who reaſoned in this manner were deceived, or how miſerably they endeavoured to miſlead others, and I am ſorry to ſay in ſome meaſure ſucceeded, will I truſt be not ſhortly forgotten. Before I ſit down, I ſhall juſt mention a very particular circumſtance, which happened at the time of paſſing that celebrated bill. None of the noble Lords who diſapproved of the bill, having thought it neceſſary to attend at the third reading; to give it the greater eclat, it was entered in the journals, *nem. con.* Whereas, it is totally unuſual and unparliamentary to do ſo, when an oppoſition has been made to the bill in any ſtage.

Several altercations now aroſe, as the Duke of *Grafton* propoſed his ſeveral motions. His Grace, however, conſenting to withdraw that part of his third motion, relative to an account of the winter-quarters provided for the King's troops under the command of General Howe, previous to his putting the queſtion on the other part of it, reſpecting the force propoſed to be brought into the field by the Provincials, ſpoke to the following effect: My Lords, it has been ſaid this day, that Great Britain is not able to coerce America. I ſhould be ſorry ſuch a notion ſhould prevail; nor do I think it well founded, if it barely depended on a trial of ſtrength between the parties. If, on the other hand, we reflect but for an inſtant, that we cannot exert our whole force againſt America, nor with prudence or ſafety one half of it, that weighty conſideration ſhould be always preſent in our minds. It is no longer a ſecret that France will not permit us. In that event, only think, my Lords, what a perilous ſituation we ſhall be in. After having waſted a conſiderable part of our blood and treaſure in this unnatural conteſt; after we have ſtretched our ordinary means of carrying on this war as far as they can go, nay probably anticipated them conſiderably; our commerce on the decline, if not ruined; our manufacturers ſtarving, or enliſting for ſoldiers; France, or perhaps the whole united ſtrength of the houſe of Bourbon, declares againſt us. Where, in ſuch a ſituation, are we to look for new reſources? I ſolemnly affirm, and with grief aſſure your Lordſhips, I do not know. I am tolerably well acquainted with the finances of this country; and I am ſure I cannot think of a ſingle tax, even in a time of perfect tranquillity, that could be deviſed, which would encreaſe the groſs receipt at his Majeſty's Exchequer. What then muſt be the conſe-

quence of a war at ſuch a period? when I can venture to foretell, that one third, if not more, of the ordinary national reſources will be ſtopped.

Lord Viſcount *Townſhend* paſſed ſeveral high compliments on the Duke of Grafton, relative to his knowledge of his Grace's abilities and candour when connected with adminiſtration as Lord Lieutenant of Ireland. He lamented greatly the freedom which had beed taken in the courſe of the debate. He obſerved, that the noble Duke had ſaid, we were not in a ſituation to go to war without endangering this country from becoming a province to France. Another noble Duke had aſſerted in debate, that what kept the troops in Boſton, was the imminent riſque of quitting it without being cut to pieces. This, he obſerved, might ſuggeſt to the rebels the very attempt. It was ſaid, that troops were to be ſent to the ſouthward; this might defeat the meaſure, for he was certain, there was not a ſyllable ſaid in the Houſe that night, that would not be expeditiouſly conveyed to America by the firſt poſſible opportunity.

The Duke of *Grafton* cloſed the debate, by adding one more reaſon for wiſhing for conciliatory meaſures.—In the event, I have firſt ſtated, Great Britain muſt be ruined by proſecuting this unnatural war. In the other, that is, ſuppoſing ſhe prevails, and brings America to her feet, I ſhall fear that, if poſſible, ſtill more; for I am perfectly convinced, that the liberties of America once gone, thoſe of Great Britain will not long ſurvive them.

The queſtion being put upon the Duke of Grafton's motion, it paſſed in the negative. No diviſion.

The Duke of *Grafton's* ſecond motion was, "That a ſtate of the army now in America be laid before that Houſe, according to the lateſt returns."

It paſſed in the negative, without a diviſion.

He then moved, thirdly, "That his Majeſty's ſervants do lay before the Houſe any plan or plans which may have been adopted for aſſigning winter quarters for the troops now in America; and that an account of the number of forces in the Provincial army be laid before the Houſe according to the beſt eſtimate that could be obtained."

The former part of this motion, reſpecting the winter quarters of the troops, was withdrawn. The latter part of the motion being put, it was negatived without a diviſion.

He moved, fourthly, "That an eſtimate of the forces now in Great Britain and Ireland be laid before the Houſe."

Affirmatived without a diviſion.

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He moved, fifthly, "That an eſtimate of the military force neceſſary to be ſent againſt America, with an account of the number of artillery, &c. be laid before the Houſe."

Negatived, without a diviſion.

November 16.

Private buſineſs.

November 17.

No debate. Adjourned to November 20.

November 20.

Lord *Mansfield* obſerved, that a bill of indictment had been found by the grand jury for Middleſex, againſt Elizabeth Ducheſs Dowager of Kingſton; that a copy of that indictment, together with the *certiorari*, had been laid before their Lordſhips agreeable to order.* The agent for the proſecution had been aſked, "Whether he was appriſed of the exiſtence of a ſentence obtained from the eccleſiaſtical court?" He had anſwered affirmatively, "That he was appriſed of the exiſtence of ſuch a ſentence, but nevertheleſs he meant to purſue the indictment."

Such being the intention of the proſecutors, it remained with their Lordſhips to ſettle only the time and place of trial. This was a matter entirely within their own juriſdiction; their Lordſhips poſſeſſed the right of adjuſting every formality neceſſary to the trial of peers, and they were competent to the exerciſe of that right in a manner moſt ſuitable to their own ideas. The King and Peers of the realm formed a court of judicature altogether conſonant with the ſpirit of the conſtitution; but whether the trial of a peer was carried on in the Parliament Chamber, in Weſtminſter-hall, a church, or in any other ſpacious building, was altogether immaterial; immemorial uſage had veſted the power of place and time in their Lordſhips' breaſts. If the trial of the Lady whoſe indictment had given riſe to this deliberation ſhould be fixed in that Houſe, the Lord High Steward would act only in the capacity of Speaker: the interrogatories muſt be propounded through him, but he would have, in other reſpects, no authority whatſoever; he would give his ſingle voice like any other Peer.

The aſcertainment of time and ſelection of place being thus

* On the 3d of November, Lord Mansfield preſented a petition from the Ducheſs of Kingſton, ſetting forth the indictment, &c. On the 6th of November, the Clerk of the Crown (according to order) preſented to the Houſe, a copy of the indictment, and the writ of *certiorari*; which were ordered *to lie upon* the table.

thus within the power of their Lordſhips, it remained only to ſtate the ſpecies of crime alledged againſt the lady, the better to guide their Lordſhips in their judgment on the occaſion.

There were crimes for which (if on their arraignment Peers were found guilty) the legiſlature had denounced terrible puniſhments. Their lives were forfeited to public juſtice; their noble blood was corrupted; their eſtates were either alienated by forfeiture to the Crown, or they eſcheated to the parties of whom they had been held. Such were the puniſhments inflicted on Peers, whoſe offences were of the capital kind. For the trial of ſuch offenders, too public, too awful, too ceremonious a mode could hardly be adopted. For the ſake of example, this was neceſſary; for the ſake of terror, it was perhaps uſeful. But with reſpect to the caſe before their Lordſhips, it was a charge, not of bigamy, but polygamy; it was a clergyable offence. The indictment was inſtituted, not really at the ſuit of the crown; it was the proſecution of private individuals. There were offences of a public nature, of which the Attorney General, as an officer of the King and of the public, had a right to take cognizance. He might exerciſe his diſcretionary judgment in determining what ſhould and what ſhould not be ſubjected to judicatorial tribunal. This would not apply to the caſe before their Lordſhips. The Attorney General had not, in virtue of his office, taken cognizance of the ſuppoſed offence. It came ſimply before their Lordſhips as a matter, although of a criminal complexion, yet entirely of a civil nature. It was connected with other diſputes about property. The indictment was to be purſued in defiance of the ſentence obtained out of the eccleſiaſtical court; which ſentence, to this hour, remained in full force: no attempts had been made to invalidate this ſentence; nor had the decree affirmed by the court of chancery, grounded on that ſentence, been yet appealed from. This ſhould ſeem as if the lady's opponents were too conſcious of the force of the ſentence to attempt an invalidation. They might be juſtified in this apprehenſion; for the noble Speaker had himſelf determined a caſe, wherein a gentleman of the ſame family with the Earl of Briſtol [the late Thomas Hervey] was concerned. It appearing by a ſentence of the eccleſiaſtical court, that he had been married to a lady who claimed him as her huſband, a verdict had been given on the ground of that ſentence.

There was a ſtill ſtronger caſe to evince the validity of *eccleſiaſtical ſentences*. A man had been tried for the forgery

of a will. The forgery was clearly proved, but a probate of the will was exhibited and allowed to be a ſufficient bar to conviction. Theſe caſes operated ſtrongly. They operated, not only to ſhew that the trial, ſo far from being as public, ſhould be as private as poſſible; but they gave riſe to this objection, "Whether, in point of juſtice, there ſhould be any trial at all?" A Peereſs of England was to be tried by her Peers. The curioſity of Europe would be excited. Admitting her to be convicted, "*cui bono?*" What good would reſult to the public? What advantage would accrue to the proſecutors? Her conviction would not in the ſmalleſt degree affect any civil ſuits now pending, or that might hereafter be inſtituted againſt this lady. And as to the public at large, would her conviction operate as an example? By no means; for no puniſhment could be inflicted on her. Say that ſhe was arraigned at the bar of that Houſe. Well! the eccleſiaſtical ſentence would be exhibited in defence, and, perhaps, put a ſtop to the trial. Admitting, however, that this was not the caſe; ſuppoſe the lady found guilty. What then? "Why then ſhe makes your Lordſhips a curtſey, and you return the compliment with a bow." There is, to be ſure, for clergyable felonies ſuch a thing as *burning in the hand.* To the hand of a lady this might be very diſagreeable; but there happens to be an act of Parliament which will not permit Peers to ſuffer corporal puniſhment for any thing under a capital crime. The lady, therefore, pleads her Peerage, and takes her leave.

Can there be no forfeiture? Yes, of the perſonal effects. But if the lady ſhould be convicted, the Earl of Briſtol has a claim to her perſonal effects; and, as he has formally renounced all title to the lady, he will ſcarcely contradict himſelf, by laying claim to effects which can be his only in virtue of marriage. The proſecutors, therefore, cannot acquire the ſmalleſt advantage from the conviction.

This being an exact ſtate of facts, the trial neither being attended immediately with any ſervice to the public, nor eventually with any advantage to the proſecutors, if, nevertheleſs, there was yet to be a trial, the more privately it was conducted the more prudent would be the meaſure. His Lordſhip would not move to have the trial waved. There were ſeveral modes of effecting that purpoſe. A *nolo proſequi* was ſometimes obtained by an authorization under the ſign manual; ſometimes the Secretary of State directed the meaſure. In the caſe before their Lordſhips, the Houſe might be moved to addreſs his Majeſty, "That he would be gra-

ciouſly pleaſed to give directions to the proper officer to grant a *nolo proſequi*." His Lordſhip did not intend to move for ſuch an addreſs; he threw out the meaſure only as a matter for future conſideration. For the preſent, he ſhould move, That Elizabeth, commonly called Ducheſs of Kingſton, ſhould be tried at the bar of that Houſe on Monday the 18th of December next; that the Lords ſhould be ſummoned two days previous thereto, and every day during the trial; that their Lordſhips ſhould attend in their robes, and not depart the Houſe without leave; that the Uſher of the Black Rod ſhould keep the next door to where he ſits locked, and ſhould keep his lobby for the reception of the priſoner; that the priſoner ſhall be at liberty to croſs-examine the witneſſes, *viva voce*; that proclamation be made every day, that whoever knows any thing touching the matter in iſſue ſhall come into Court, and fairly and fully, diſcloſe the ſame; and that the oath adminiſtered to the witneſſes on the trial ſhall be in the following words:—"You ſhall true anſwers make to all ſuch queſtions as ſhall be aſked of you, touching the matter in queſtion, and tell the truth, the whole truth, and nothing but the truth, ſo help you God, and the contents of this book."—The motions were all agreed to without oppoſition.

November 21.

Private buſineſs.

November 22.

The Lord Chancellor moved, That circulating letters be written to all the Peers, acquainting them, that the trial of Elizabeth, calling herſelf Ducheſs Dowager of Kingſton, was fixed for Monday the 18th of December next, at the bar of that Houſe, at eleven o'clock in the forenoon, to anſwer a charge on an indictment found againſt her, under the name of Elizabeth, the wife of the Hon. Auguſtus John Hervey, deſiring their Lordſhips attendance; and that in the notices given to any of the Royal Family there be inſerted "that their preſence is deſired by the Houſe."

Agreed to.

Ordered, Any perſon or perſons who may have occaſion to ſpeak to the court, ſhall addreſs himſelf or herſelf to the Lords in general, and not to the Lord High Chancellor.

That when a Lord gives his judgment, he ſhall deliver his opinion upon his honour.

That the clerk of the crown of the King's Bench do attend on the day of trial to aſſiſt the other clerks.

That

That the high ſteward of Weſtminſter, his deputy, and the conſtables, do on that day keep the paſſages between Charing Croſs and Old Palace Yard clear from carts and drays, from ten in the morning till nine in the evening.

Adjourned to November 24.

November 24.

Private buſineſs. Adjourned to *November* 27.

November 27.

No debate.

November 28.

No debate.

November 29.

No debate.

November 30.

Order of the day, the third reading of the indemnity bill.

The Marquis of *Rockingham* oppoſed it in very ſtrong terms. His Lordſhip obſerved, that it would be a diſgrace to the ſtatute books, as it held out an indemnity while, in fact, it aſſerted the perſons indemnified were guilty of no offence whatever: on the contrary, it legalized the meaſure of ſending his Majeſty's electoral troops into the garriſons of Gibraltar and Port Mahon, while, at the ſame time, it held out an indemnification for an offence againſt ſome law exiſting at the time the ſuppoſed illegal act was committed.

The Lord Viſcount *Weymouth* agreed with the noble Marquis; he thought the bill totally unneceſſary. He was ſure the meaſure was in itſelf perfectly legal and juſtifiable, and offered to divide with his Lordſhip, if he ſhould think proper to put the queſtion for rejecting it.

The Earl of *Suffolk* ſaid, he could not ſee any neceſſity for the bill. Beſides, though ſuch a bill ſhould be looked upon as neceſſary in its preſent form, he could never approve of it, becauſe the preamble was at direct variance with the enacting clauſes; that is, it propoſed to indemnify ſuch perſons as adviſed his Majeſty to ſend his electoral troops into the garriſons of Gibraltar and Minorca, while the preamble, which is always taken as the ground of the bill, ſtated "that doubts having ariſen, &c."

The Earl *Gower* united in opinion with the noble Lords; ſaid, his ſentiments from the beginning were the ſame as now; that he thought the meaſure legal and conſtitutional, and had accordingly adviſed it in concert with the reſt of his Majeſty's miniſters; and now, in conformity with thoſe ſentiments, he ſhould be for rejecting the bill.

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The queſtion was put, and the bill was unanimouſly rejected.

The land-tax bill, the mutiny bill, the militia bill, the vice-treaſurer's bill, &c. were read the third time, and paſſed. There was no debate on theſe bills in any ſtage of their going through the Houſe of Lords.

Adjourned to December 4th.

December 4.

Private buſineſs. Adjourned to December 6th.

December 6.

Private buſineſs.

December 7.

Private buſineſs.

December 8.

The Lord *Chancellor* recited the ſeveral meaſures which had been purſued relative to the removal of the *certiorari* in the Ducheſs of Kingſton's caſe, from the inferior court, where the indictment was originally preferred. His Lordſhip defined the offence to be of a bailable nature, but not a capital felony; although, in his opinion, the blackeſt crime which came within the benefit of clergy, and the moſt grievous conſequences attended the conviction. The lady alluded to had been indicted in an inferior court for a ſecond marriage during the life of her firſt huſband, by the name, ſtile, and title of "Elizabeth the wife of the Hon. Auguſtus John Hervey," now Earl of Briſtol. In a petition ſhe had preſented to the Houſe, praying the removal of the *certiorari*, ſhe had ſtiled herſelf "Elizabeth Ducheſs Dowager of Kingſton." Her right, therefore, to be tried as a peereſs being indiſputable, it became neceſſary to conſider what regulations ſhould be adopted to give greater dignity to their proceedings. As the lady had been admitted to bail, the law required that ſhe ſhould ſurrender in diſcharge of her bail. But into whoſe cuſtody? Whether the Uſher of the Black Rod, the Serjeant at Arms, or the Lieutenant of the Tower, muſt be left to their Lordſhips. Suppoſing the trial ſhould laſt longer than one day, to what priſon ſhould the lady be committed? In his opinion, the Tower was the priſon which properly appertained to that Houſe. It might be neceſſary therefore, to give orders that the Lieutenant of the Tower ſhould attend on the morning of the trial to receive the lady into his cuſtody after a ſurrender, in diſcharge of her bail.

The next matter was, whether agreeable to precedent, they would inſiſt on the lady to make her obeiſance to the Houſe

Houſe on her knees? Or whether, in conſideration of her ſex, they would remit that part of the ceremony?

Another thing neceſſary to be determined was, whether, in caſe any of the evidences ſhould, through age or infirmities, require ſuch indulgence, chairs might not be appropriated for them?

It was alſo proper to conſider, whether an addreſs from the Lords Spiritual and Temporal aſſembled, ought not to be preſented to his Majeſty, praying, that a party of the guards may be ordered to attend on the occaſion, to add greater ſolemnity, as well as dignity, to the buſineſs.

Laſtly, What ſpace without the bar ſhould be allotted to the lady's council; what number of perſons, or whether any, ſhould be admitted to be preſent at the trial; all theſe matters the Chancellor moved, might be left to the determination of a committee.

Agreed to; and adjourned to December 11.

December 11.

The Lord *Lyttleton* preſented a petition from the Ducheſs of Kingſton, praying to have her trial put off for two months. Amongſt other things ſet forth in the petition, it was alledged, that her Grace had been confined to her bed with a ſevere fit of illneſs for ſeveral days paſt, and was at this time in the ſaid ſituation: [Her phyſicians, Dr. Warren, Dr. Schomberg, and Dr. Falck, had given it as their opinions, by certificates under their hands, that from the preſent ſituation of her Grace, they thought it impoſſible for her to be able to attend before their Lordſhips at the time appointed.] It likewiſe ſet forth, that it was with the utmoſt concern and grief that ſhe found herſelf under the neceſſity of ſupplicating the indulgence of their Lordſhips, and of ſubmitting to remain longer under the imputation of a criminal charge.

The Lord *Chancellor* ſaid, if the Houſe was ſatisfied with the allegations of the petition, he thought it would be proper to allow further time; and there was not the leaſt doubt but the Houſe would indulge the petitioner, when the reaſons for ſuch indulgence were made ſatisfactory to their Lordſhips; that as to the certificates from the different phyſicians, no notice could be taken of them, unleſs delivered in upon oath.

The Houſe went into a committee to conſider on the forms to be obſerved on the trial of the perſon calling herſelf Ducheſs Dowager of Kingſton, but indicted as the wife of Auguſtus John Hervey, now Earl of Briſtol, the Earl of

Sandwich

Sandwich chairman; and came to the following reſolutions: viz.

1. Reſolved, that it appears to your committee that the chamber of Parliament is for the purpoſe of the trial a very inconvenient place; and that it be recommended to conſider of ſome other.

2. Reſolved, that, upon ſearching for precedents, we find none of any peer being tried for felony in the chamber of Parliament.

3. Reſolved, that the proper officer of the board of works do make an eſtimate of the expences of the proper works for ſuch trial.

4. Reſolved, that if the trial be in the chamber of Parliament, the two ſide doors be left open below the bar, and there be an apartment for the proſecutor's counſel, witneſſes, &c. as well as thoſe of the perſon calling herſelf Ducheſs Dowager of Kingſton.

5. Reſolved, that the rail behind the archbiſhop's bench be continued to the woolſack, to prevent crowding about the fire, and for a convenient entrance.

6. Reſolved, that no perſons whatever be admitted within the bar.

7. Reſolved, that no perſons be allowed about the throne but Peers of Great Britain not of this Houſe, and the ſons and heirs of Peers.

December 12.

The doctors Schomberg, Warren, and Falck, attended, according to order, to give an account of the Ducheſs of Kingſton's health. They thought ſhe would not be able to attend her trial on the 18th.

Report from the committee of yeſterday; and the reſolutions being read, the firſt reſolution was read a ſecond time.

Lord *Mansfield*. I riſe to give my negative to this reſolution, firſt, becauſe I think the committee have exceeded the order of reference, and decided upon a matter not properly before them; and ſecondly, becauſe I think there is not the leaſt occaſion nor neceſſity for trying the lady out of this Houſe. As to the order of reference, it imported nothing more than that the committee ſhould conſider of ſeveral circumſtances relative and preparatory to the trial, which had not been before determined on by the Houſe, and which at the time I moved the ſeveral former reſolutions now on your Lordſhips journals, I deferred for future conſideration. The firſt of thoſe reſolutions ordained, that the trial ſhould be within

within the chamber of Parliament. The firſt Reſolution of your committee now reported, contradicts that directly; for it ſays the trial ſhall be had out of the chamber of Parliament. This it does, to be ſure, in an indefinite manner, without aſcertaining the place where the trial ought to be had; but it nevertheleſs contradicts a reſolution taken in a very full Houſe, againſt which, as well as my recollection ſerves me, not one diſſenting voice was heard; but even if there had, or that the Houſe had not been ſo well attended, the effect would have been the ſame; for until the reſolution had been reſcinded, it can require little argument to prove, that it was totally incompetent for your committee to enter into any conſideration relative to the proper place of trial. Your committee have therefore exceeded the powers under which they were appointed to act. The reference did not, nor could not mean, that they were to conſider of the propereſt or moſt convenient place of trial. That proper place had been already fixed by the Houſe; therefore as long as the reſolution remains on your Lordſhips' journals, no proceedings could be had thereon. The committee have exceeded their inſtructions, and of courſe have acted irregularly. As to the matter contained in the reſolution, beſides the irregularity, I cannot think it at all neceſſary that the trial ſhould be held out of this Houſe. I do not conceive that the charge againſt the lady has any thing ſufficient to diſtinguiſh it from many others tried at your Lordſhips' bar. In the year 1725, I was preſent myſelf, when Lord Macclesfield was tried for a grievous offence at this bar; an offence, conſidering the office he then held, that of Chancellor of Great Britain, accompanied by ſeveral very aggravating circumſtances, for which he might have incurred a fine that would have affected perhaps the whole of his fortune, and conſequently have ruined and impoveriſhed his family. The proceedings were by impeachment, the moſt ſolemn mode of trial known under our laws. The proſecution was not carried on by counſel, as it will be on the preſent occaſion, but by managers from the other Houſe, many in number, and conſequently requiring more room. All accuſations carried on by bill of attainder, are tried at this bar. Lord Strafford loſt his head on the event of ſuch a mode of trial; and ſeveral others I could mention, were it neceſſary, have been tried in the ſame manner. If, then, trials affecting the fortune and honours of a Peer of the realm, working a corruption of blood, and a forfeiture of lands, have been tried in the chamber of

Parliament,

Parliament, will your Lordſhips think, that a trial, which on conviction cannot be productive of any of thoſe ſerious and important conſequences, requires a greater ſolemnity? For my part, I am of opinion it cannot; for I remain ſtill convinced, that although the lady ſhould be convicted of the charge, the event will anſwer very few good purpoſes by the way of example. Such a conſequence is, I believe, hardly expected. There never has ſuch a thing before happened, nor perhaps ever will again. If it be meant as a rule, it is to my apprehenſion very improperly applied; for it can never work reformation or amendment among perſons of a different or inferior rank. They know the mode of proceeding, already determined on in reſpect of themſelves, ſhould they be called to anſwer a charge of a ſimilar nature; and the ſolemnities which may be adopted on this trial, can never poſſibly come home to them. The inconvenience for want of room ſeems to be the chief ground of this reſolution; but that may be eaſily remedied. I remember to have ſeen galleries erected below the bar, for the purpoſe of admitting auditors; and I have frequently pleaded under them myſelf, when I have attended as counſel. Beſides theſe general reaſons, a ſolemn trial in Weſtminſter-hall will be attended with a very heavy expence; and I doubt much, if the place of trial ſhould be changed, and the expence attending it had been foreſeen, whether the lady would ever have been tried. Another point that might have weighed with the committee, was, perhaps, that ſome perſons charged with ſuch offences ſhould be made as public as poſſible. For my part, I think otherwiſe. If the priſoner ſhould be innocent, and one innocent muſt ſuffer more on ſuch an occaſion than any other, her misfortune muſt be aggravated; if ſhe ſhould be found guilty of the charge, or if ſhe is conſcious it will be made good, it is more than probable ſhe will ſink under it; then there will be no trial at all, and every argument of ſolemnity and example will be at an end. I muſt again remind your Lordſhips, that ſhould the lady be convicted, ſhe will ſuffer no puniſhment whatever. The offence is a clergyable offence; the corporal puniſhment is remitted by ſtatute; it will work no corruption of blood, loſs of dower, or lands. If her marriage with Lord Briſtol ſhall be proved, her goods and chattels will become his property, conſequently the whole will have the ſtrangeſt appearance imaginable. She will be brought to her trial in Weſtminſter-hall with all the *ſolemnities* that can be conceived. The eyes of Great Britain,

tain, and all Europe; will impatiently wait for the iſſue; and ſuppoſing that the charge, attended with every poſſible circumſtance of aggravation ſhould be made good, what will be the conſequence? She will go off without any degree of puniſhment whatever. I have heard, within theſe few days, that a bill is inſtituted in Chancery, to prove that the ſentence of the eccleſiaſtic court was obtained by colluſion between the parties, in order to ſet that ſentence aſide; but ſuppoſing it ſhould be proved that the ſentence was obtained colluſively, I cannot ſee what benefit the promoters of this proſecution will derive from it. The proſecution is a private one, yet thoſe who have ſet it on foot can reap no advantage from any ſuch proof. I remember a caſe, where a perſon indicted for forging a will, produced the probate of it in court, in bar of the indictment, and it was received as a good plea, though it was believed he was guilty of the charge; ſo in the preſent caſe, though the colluſion ſhould be made manifeſt, the marriage will remain confirmed under the ſentence. On the whole, I cannot perceive that any one good conſequence can poſſibly reſult from this trial, either in a private or public light; much leſs can I ſee the neceſſity of having the Lady tried in Weſtminſter-hall, in preference to the Parliament chamber. For the reaſons above aſſigned, I am for diſagreeing with your committee in this reſolution.

The Lord *Lyttelton*. I will not pretend to ſay whether the committee have exceeded their power, or have gone out of the order of reference. If they have, it can make very little material difference: the defect can be readily remedied by motion, or the reſolution objected to may be withdrawn. I am always ſorry when I have the misfortune to differ from the noble and learned Lord who ſpoke laſt, particularly on a ſubject of this nature. I am far from thinking the offence ſo trivial, or the conſequences ſo unintereſting, as his Lordſhip has been pleaſed to repreſent them. I think the offence an offence of the moſt atrocious nature, immediately tending to diſſolve the great bonds of civil ſociety; and, in my opinion, a crime of the blackeſt dye; for I know of none that exceeds it in guilt. It is on this account that I am for having the trial carried on in the moſt public manner, and with every poſſible ſolemnity that this Houſe is able to give it. The noble and learned Lord ſays, that ſuppoſing the Lady, calling herſelf Ducheſs Dowager of Kingſton, ſhould be convicted of the charge made in the indictment, yet ſhe will eſcape unpuniſhed. I think

very

very differently, on the effect of ſuch a conviction, from his Lordſhip. I think that it will be no ſmall degree of puniſhment, ſhould the event of the trial go againſt her, that the noble and learned Lord on the woolſack will, after informing her of the judgment of her Peers, aſk her whether ſhe has been ever before admitted to her clergy; and being anſwered in the negative, will tell her, that her puniſhment, that of burning in the hand, is remitted, on account of her rank; but that if ever ſhe ſhould offend again, on a clergyable offence, that ſhe will be liable to ſuffer the pains and penalties of death; of ſuffering as a common felon. I do not ſay it is probable that the Lady will offend again in this or any other manner; but I contend it is poſſible ſhe may; and under that poſſibility, whatever the learned and noble Lord may conceive, I inſiſt that ſuch a warning, delivered in the manner I have repreſented, will be no ſlight, but a very heavy and exemplary puniſhment, to a perſon of her rank. His Lordſhip ſeems to be of opinion, that the propoſed ſolemnities of this trial will not, nor cannot, operate by way of example, on perſons of inferior rank. I beg leave to think it will. I think it will teach the public at large, that the higheſt are not exempt from puniſhment, if they ſhould tranſgreſs the laws; and it will likewiſe convince them, that as the laws of their country are their common ſecurity, ſo they are the common avenger of every ſpecies of guilt and injuſtice, be the rank or fortune of the offenders what it may. The noble and learned Lord, ſpeaking of the ſuit inſtituted in the court of Chancery ſays, that that court is reſtricted in its juridicial proceedings, by the ſentence of the eccleſiaſtic court, which has declared the marriage void. Now, my Lords, if that ſentence ſhould come out to have been procured by colluſion and impoſition, that is another very ſtrong and cogent reaſon for ſifting this matter to the bottom; for what would be the probable conſequences of leaving it in the power of parties to diſſolve marriages by ſuch colluſive management as this? But that by previous agreement, inſtituting a cauſe of jactitation, where no evidence appearing, only ſuch as the parties think proper to produce, the eccleſiaſtical court, of courſe, give a ſentence, and they are left at liberty to marry again. If the Lady, in ſuch a caſe, ſhould happen to have children, the law is defeated, the true line of legal deſcent broken, and the next heir at once robbed of his honours and eſtate, by thus introducing a ſpurious iſſue. This, I ſay, my Lords, is a matter that deſerves

ſerves your Lordſhips' moſt ſerious conſideration; and is by no means of that unimportant, trifling nature, that it is this day ſo ſpeciouſly repreſented. This Lady, or any other Lady, by ſuch means as theſe, may have it in her power to render illegitimate thoſe that are truly legitimate; and to render ſpurious thoſe who have the moſt clear and legal rights to their honours and eſtates. For aught any thing your Lordſhips know, or can venture to foretell, if this matter be not now properly ſcrutinized, and enquired into, in twenty years hence it may again preſent itſelf in a different form. We may be called upon to decide on the rights of different claimants, for thoſe honours; or for any other in which ſimilar arts may be employed to defeat the deſcent. This reaſon, united with ſeveral others, is one that has determined my opinion on the propriety of entering fully into the merits of this very intereſting and important buſineſs. If, upon conviction, the property of the perſonal eſtate ſhould appear to be veſted in the Lady, by any particular agreement, that is another object worthy of notice; and what I think, were there no other, ſhould urge us to ſee that the claim which the crown is entitled to make by the Attorney-general, ſhould be fairly and fully maintained. The great expence of a trial in Weſtminſter-hall is another of the noble Lord's objections; but I am confident ſuch a conſideration will never weigh with his Majeſty, when juſtice is the object to be obtained; and that ſpecies of juſtice too, which in its conſequences may be of ſuch ſingular importance to the nation at large. There are other matters of a private nature, which are not totally unworthy of your Lordſhips' notice. The ſuit the noble Lord ſpeaks of can never come to a hearing, till your Lordſhips decide on this matter; for as the Lady is not obliged to anſwer upon oath, ſhe will of courſe anſwer ſhortly to the bill filed againſt her in the court of Chancery, that ſhe cannot give in a full anſwer till this Houſe have determined. In this view again, the public adminiſtration of juſtice will be retarded. In one event, if ſhe ſhould be acquitted, there is at once an end of the matter; in the other, if ſhe ſhould be convicted, that conviction will be ground for a civil proſecution for the recovery of the real eſtates. On the whole, my Lords, I moſt ſincerely wiſh that the affair may be fully and fairly inveſtigated; that the trial may be in the moſt public manner, accompanied with every poſſible ſolemnity; and that it may not prevail in general, that this Houſe, departing from its duty and known love of juſtice, ſhould chuſe

to huddle the affair up, by having none, or at leaſt very few witneſſes, to their proceedings and the grounds of their determination.

The Lord *Mansfield*. I am ſorry I have had the misfortune to be ſo much miſunderſtood by the noble Lord, or that it ſhould go out of this Houſe, that I had offered a ſyllable in extenuation of the crime; on the contrary, if any act of colluſion ſhould come out, and it ſhould be made appear that the eccleſiaſtical court was impoſed on by the parties, and made to pronounce ſentence upon falſe information, it would be a very great aggravation of the offence, nay of much a blacker dye than ſome offences the law defines and pronounces murder. His Lordſhip ſtates another argument, in which he is, I think, equally miſtaken, and which with me would operate in a direct contrary manner from what he ſeems to wiſh He ſays, the cauſe inſtituted in the court of Chancery cannot proceed, and that the Lady's conviction will be a ground for a civil proſecution. That is one, and indeed the chief exception I have to the trial, for I ſhall always be againſt criminal proſecutions, as laying a ground for purſuing and maintaining civil claims. The noble Lord ſays, that it is in the power of this Houſe to add to the puniſhment, ſhould the Lady be convicted. I doubt that this aſſertion can be juſtified in law. I know but of one (for there is no precedent throughout the whole buſineſs to direct us) and that is the ſtatute of Elizabeth, which empowers juſtices of the peace to commit perſons convicted of clergyable offences to priſon, for a time not exceeding twelve months. The words of the act are, "all rogues, vagabonds, &c." I believe it would be difficult, by any analogous reaſoning, to prove, that the act alluded to veſts ſuch a power in this Houſe over its own members. As to the general motives, for making the trial as public and ſolemn as poſſible, I ſee very little weight in them. Great numbers of people may be accommodated in the galleries; and as to the preſervation of deſcents, that part of the noble Lord's argument comes to nothing; for the marriage act has obviated every inconvenience, were any ſuch to be dreaded. It provides, that all marriages ſhall be publicly ſolemnized; that there muſt be a licence granted; that the parties muſt be known to the clergyman or reſident in his pariſh; that there muſt be a publication of banns; and that the whole muſt be authenticated by a regiſter.

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The Earl of *Sandwich*. I happened to come down to the Houſe the day the committee was to ſit, and going up ſtairs before they proceeded to buſineſs, they did me the honour to vote me into the chair. We were fully aware that the Houſe had ordered the trial to be had in the Chamber of Parliament; but when the plans were ſubmitted to our conſideration, we perceived that there would not be ſufficient room for the counſel and the parties; the ſpace at each ſide, according to the plan delivered to us, not having room for above twenty perſons at each ſide. Whatever we did, therefore, was merely to expreſs our ſentiments as a ground for future conſideration. I do aſſure your Lordſhips, that it was a reſpectable committee; and that there was not one noble Lord preſent, who did not unite in opinion, that the Parliament Chamber was too ſmall, and in every reſpect inconvenient. As to the reſolutions, all I have to ſay concerning them is, that I was the inſtrument employed to lay the ſenſe of the committee before the Houſe; and I cannot help declaring, that both now and then, in my opinion, Weſtminſter-hall is a much more proper place for the trial than the Parliament Chamber; for, undoubtedly, the nature of the charge and the rank of the perſon require and call for the moſt public and ſolemn trial.—It is always with the greateſt diffidence I ever differ from the noble and learned Lord, and now probably I am wrong. I hope therefore the noble Lord will believe, I ſuggeſt what I am going to offer, more in order to gain information, than by way of maintaining any ſettled opinion of my own. The matter I allude to is his Lordſhip's aſſerting, that the marriage act will prevent every poſſible evil that might otherwiſe ariſe by inſtituting cauſes of jactitation in the eccleſiaſtical court, and obtaining ſentences there by means of colluſion and impoſition. I dare ſay I am wrong; but I have hitherto imagined, that marriages ſolemnized beyond ſea, or in Scotland, are valid and binding here, or within the kingdom of England, notwithſtanding the proviſions in the marriage act, ſo that they be legally ſolemnized according to the municipal laws of the reſpective countries where the ceremony is performed.

Lord *Mansfield*. The noble Lord is partly right, but he miſunderſtood me. I laid down the rule as a general one, not as applying to every poſſible exception that might ariſe; and the inſtances the noble Lord ſuppoſes, do not come within either the rule or the exception; for in the caſe of the Lady, who is the ſubject of the preſent debate,

her ſuppoſed marriage with the preſent Lord Briſtol was never publicly declared; ſhe always continued to live as a ſingle woman till the matter came to be litigated, and was brought before the eccleſiaſtical court; whereas in marriages ſolemnized beyond ſea, the parties are ſuppoſed to live in a public ſtate of matrimony.

The Lord *Chancellor*. After what has been urged this day, there can be no doubt that the charge ſtated in the indictment is of ſuch a nature, though it ſtood alone, as to demand your utmoſt attention; but when coupled with the circumſtances of colluſion and deceit, which is the true ground of this proſecution, I am ſatisfied there is not a noble Lord in this Houſe who can think of it without horror. The crime itſelf, however odious it may appear, ſeems nothing when compared with the aggravated means employed to enſure it ſucceſs, and put it beyond the power of diſcovery or detection. I am clearly of opinion that this trial ſhould be accompanied with every poſſible ſolemnity; and that nothing ſhould be omitted to convince the public that juſtice only was wiſhed or intended on either ſide, or that any thing was meant to be ſuppreſſed. I cannot but think the puniſhment, though it ſhould be productive of no further conſequences but bare conviction, will be very heavy. The infamy attending it ſurely is ſomething, were it to reſt there; and if it ſhould reach all or any part of the Lady's fortune, it muſt be very ſeverely felt. On the whole, I do not think the Parliament Chamber at all calculated for this buſineſs; and ſhould the aggravating circumſtances, that the ſentence was obtained colluſively, turn out to be true, I confeſs the words of a great lawyer, reſpecting a perſon who married (or debauched) his ſiſter-in-law during the life-time of his wife, ſeem extremely applicable, that the crime was in itſelf of the worſt complexion, but attended by this circumſtance, it became ſtill, if poſſible, a thouſand times more odious and criminal.

Earl of *Suffolk*. I ſhall not enter into any diſcuſſion of the ſubject reſpecting the crime with which the Lady is charged; neither ſhall I now give my opinion, whether Weſtminſter-hall or the Parliament Chamber is the moſt proper place for the trial. I ſhall reſerve myſelf to ſpeak to that queſtion, when it comes properly and regularly before the Houſe. The queſtion now immediately under conſideration is ſolely confined to the conduct of the committee, to determine whether they have not exceeded their powers, and inſtead of adhering to the order of reference made by the

the Houſe, have obeyed that order, or have not rather controuled our proceedings. In my opinion they have; and by ſo doing, have acted irregularly; for which reaſon, when the queſtion comes to be put, I ſhall vote for diſagreeing with the reſolution now before you. I look upon myſelf by no means precluded by that vote for giving my opinion for preferring Weſtminſter-hall to the Parliament Chamber, nor for the latter in preference to the former, when that point ſhall come to be diſcuſſed. If, however, I imagine that the puniſhment of the offence immediately depended on the mode or ſolemnity of the trial, I own, very fairly, that the nature of the charge, and the circumſtances of aggravation ſuppoſed to be combined with it, ſeem to me to call for the utmoſt ſeverity it is in the power of this Houſe to inflict. But reſerving my decided opinion on thoſe points for its proper place, I again repeat, that the proceedings of the committee ſeem totally irregular, and as ſuch I ſhall give my vote for diſagreeing with the reſolution now reported.

Earl *Gower*. I came into the Committee-room before it roſe, and, as one who attended, am anſwerable in part for the preſent reſolution, though I had no direct hand in framing it. On re-conſideration, I think the committee exceeded their powers, and am therefore very ready to acquieſce in the ſentiments of the noble and learned Lord who firſt ſpoke in this debate. As to the place where the trial ought to be had, I muſt confeſs, I am for every poſſible ſolemnity imaginable, and am for having it attended by every act of notoriety the enquiry into a charge of ſo atrocious a nature moſt loudly calls for.

Lord Viſcount *Weymouth*. I do not riſe to paſs any cenſure on the conduct of the noble Lords who compoſed the committee. I am convinced that they acted by miſtake, and offended againſt the order of the Houſe, on an idea that the place proper for the trial, not the accommodation of the counſel, witneſſes, agents, &c. was what was properly referred to them. This laſt was clearly the object which the committee was confined to. They went beyond their inſtructions, and of courſe have acted irregularly. On this ground alone, I ſhall vote againſt the reſolution, reſerving my definitive opinion till the matter ſhall come before the Houſe in another form. If any noble Lord on that committee had wiſhed to bring the point fairly into diſcuſſion, the regular way would have been to move to have the former order diſcharged, which appointed the trial to be had in the Parliament Chamber. Much ſtreſs has been laid on

the heinouſneſs of the crime, and I think with very great juſtice; but this has been made uſe of as an argument to prove what?—that the Lady ought to be tried in Weſtminſter-hall. A very ſtrange concluſion indeed! as if there were any thing miraculous or taliſmanic in the air of Weſtminſter-hall more than in that of this Houſe. In my apprehenſion, the crime, the proofs, the means of diſcovering the truth, will be the ſame in one place as the other. However, that matter being no part of the preſent conſideration, I do not mean to give any opinion on it till it comes properly before me.

Lord *Cathcart*. There was not the leaſt intention in the committee to paſs any cenſure on the order moved for by the noble and learned Lord the firſt day this buſineſs came before the Houſe. The reſolution now ſo much cenſured makes its preſent appearance by miſtake; and it has happened in this manner:—When the reſolutions were drawn up, the clerk was ordered to tranſcribe them; but, as it is our misfortune at preſent to have but one clerk, he was obliged to come here to attend his duty, by which means he was under the neceſſity of giving the reſolutions to ſome other perſon to copy. This perſon miſplaced the preſent reſolution, and put it firſt, inſtead of giving it the laſt place, as you will ſee by peruſing the reſolutions; for all thoſe that follow, ſuppoſe that the trial is to be held in the Parliament Chamber, while the firſt declares the very contrary. I beg leave to aſſure the noble and learned Lord, that the committee endeavoured to act in the beſt manner; and the ground of this reſolution was, that *no* precedent could be found, where any Peer or Peereſs had been tried for felony, but in Weſtminſter-hall: and in their reſearches, they perceived that the committee appointed to draw up reſolutions for ordering and directing Lord Macclesfield's trial, have ſtated the ſame in their report. This, united with the want of room below the bar, was, I aſſure your Lordſhips, what determined your committee to come to the preſent reſolution.

Lord Viſcount *Dudley*. For my part, I do not think that the committee by any means exceeded, or went out of the order of reference. Perſons from the board of works attended for the purpoſe of ſhewing the ſpace allotted for counſel, witneſſes, &c. and it appearing ſo very ſmall and inconvenient, as well as for the weighty reaſons urged in the courſe of the debate, we thought proper to come to this reſolution. I dare ſay there is not a noble Lord who was preſent at that committee,

committee, has heard any thing this day to induce him to alter his ſentiments. In that perſuaſion, when the reſolutions now before the Houſe are diſpoſed of, I mean to give notice, and fix a day for taking the ſenſe of the Houſe, which is the proper place for the trial of Elizabeth, calling herſelf Ducheſs Dowager of Kingſton. He made the motion afterwards, and the ſame was ordered to be taken into conſideration on the 14th.

Lord *Mansfield*. The noble Lord (Lord Cathcart) need not have given any aſſurance that there was no intention of paſſing a cenſure on the motion made by me, and carried in a full Houſe, for trying the lady in the Parliament Chamber. I never ſuppoſed any ſuch thing. It was not my act, but that of the Houſe: I was only the mover. I do not mean to trouble myſelf any further about it; nor ſhould I now, were it not that the order of the Houſe is concerned. All I have to add is, that if expedition is looked for, the preparations neceſſary to be made for a trial in Weſtminſter-hall will rather retard than accelerate the buſineſs.

The queſtion was then put on the firſt reſolution, and unanimouſly diſagreed to.

The ſecond reſolution being read, Lord *Mansfield* objected to it, and moved, that the Houſe diſagree to that part of it relative to the committing the lady to the Tower. He oppoſed it on the grounds of the fatigue it might occaſion to the priſoner; and the difficulty of rendering her up to the Lieutenant of the Tower by any order made now, as ſhe was out upon bail.

The Lord *Chancellor* ſaid, he ſaw no difficulty at all ariſing from the mode propoſed; that he had attended the circuits ſixteen years, and he always ſaw, that on the firſt day the bail came into court and diſcharged themſelves, by ſurrendering or delivering the priſoner into the hands of the proper officer; who, if the trial did not come on that day, took the priſoner into cuſtody, and held him in confinement till he was tried.

Lord *Mansfield* again obſerved, that what the noble and learned Lord ſtated was perfectly right; but his argument went to prove, that no order for the future confinement of the priſoner was ever made till the priſoner was firſt ſurrendered and brought into court, in diſcharge of the bail; therefore, the proper mode of proceeding would be to wait for that event, and when it arrived, either to take freſh bail, or to commit the lady to the Tower.—The latter part of

this reſolution was diſagreed to; and it only ordered, that the lady ſhould, on her appearance at the bar, be taken into the cuſtody of the Black Rod.

A bill from the Commons, to prohibit all trade and correſpondence with America, read the firſt time; no debate.

Adjourned to November 14.

November 14.

Lord Viſcount *Dudley*. The reſolution of your committee, reported on the laſt day this buſineſs was under conſideration, being pronounced irregular, previous to ſtating the grounds of the motion, which I ſhall ſubmit to your Lordſhips before I ſit down, I think it incumbent on me, as ſerving on that committee, to point out the cauſe of that ſeeming irregularity, and the apparent contradiction there was between the firſt reſolution of the committee and the order under which they acted. In the firſt inſtance they proceeded to call the officers of the board of works before them, and to examine the plan and accommodations of a trial to be held in the Parliament Chamber. After ſuch a ſpace had been allotted for the priſoner and her attendants, for the counſel, witneſſes, and agents, ſuch a ſpace for the perſons attending the trial to paſs and repaſs, it was found that there would be no room for the admiſſion of auditors of any rank or condition whatever; or that if there might for a few, it would be impoſſible to draw any line to aſcertain who they ſhould be. Beſides, it was conſidered that, on account of the ſex of the priſoner, it would be proper to have a room apart: where, on ſome occaſions, it might be improper to admit any but her female attendants. She might be taken ill or indiſpoſed in the courſe of the trial; ſhe might want—to withdraw for other purpoſes, in which caſe it would be proper for her to have a room ſecluded from the intercourſe of even her own counſel or agents, which, if ſhe ſhould be tried in the Parliament Chamber, could not be the caſe, no ſuch room being to be had. Thoſe reaſons induced the committee, after ſtrictly complying with the order of reference, (for all the following reſolutions were framed on the ground that the trial was to be held in the Parliament Chamber) to ſubmit to the Houſe the inconvenience of holding the trial in the place appointed; not with an intention of exceeding their inſtructions, or controuling the order of the Houſe, but barely to ſtate an opinion relative to what was the reſult of their enquiries. The effect of all this was, however, deſtroyed by a miſtake of the clerk who tranſcribed the reſolutions; for, inſtead of placing the reſolution

reſolution ſtating the inconvenience laſt, he placed it the firſt; and, by that means, the whole together carried an appearance of abſurdity and contradiction, only to be reconciled and explained in the manner I have now related. We had another point in view, though, as we looked upon ourſelves in ſome meaſure reſtricted by the order, we made it no part of our report; that was, after the moſt minute reſearches, we could not find a ſingle precedent of a Peer or Peereſs being tried for felony in the Parliament Chamber. I am therefore of opinion, that I am well juſtified in ſtating the propoſition I am about to ſubmit to your Lordſhips, that the place of trial is unprecedented. There were beſides ſome matters mentioned by a noble and learned Lord, whom I do not now ſee in his place, [Lord Mansfield] that were far from ſtriking me in the ſame manner they did that noble Lord. It was ſaid that the trial would not probably laſt above half an hour. Now I underſtand that it will be of much longer duration, and may be protracted to the length of two or three days, if not more, ſhould the proofs come out that are expected to be adduced. The trial was, I remember, likewiſe treated as a ſlight and trivial matter, as drawing after it no ſerious conſequences, and, of courſe, requiring none of thoſe ſolemnities uſual on ſimilar occaſions; but in this again I differ very widely from the noble and learned Lord, for I think a conviction for felony, pronounced by your Lordſhips, as the firſt court of criminal judicature, a very heavy puniſhment, a puniſhment that the moſt obdurate muſt very ſenſibly feel. I ſhall not ſpeak of any of the other conſequences ſuch a conviction would be productive of, as that is no part of our preſent conſideration. It is ſufficient to obſerve, that the offence with which the lady is charged is of the blackeſt dye, and ſaid to be attended with the moſt aggravating circumſtances of criminality, to ſhew that the trial ſhould be had with all poſſible ſolemnity ſuch a charge demands. If your Lordſhips ſhould determine that the place of trial ſtill remains at your own option, I have one of the greateſt authorities to ſhew that you cannot diſpenſe with the uſual form of appointing a Lord High Steward. Lord Coke ſays, "Though the Houſe of Peers have a right to try one of their own body at the bar of their own Houſe, yet there muſt be a Lord High Steward appointed to preſide at ſuch trial." On the whole, my Lords, taking the inconvenience, the point of precedent, and the ſolemnities required on ſuch occaſions, time immemorial, I ſhall move you, "As the Chamber of Parliament has been found an inconvenient place, and

as

as it is unprecedented to try a Peer or Peeresſ, indicted for felony, at the bar of this Houſe, that Elizabeth, calling herſelf Ducheſs Dowager of Kingſton (indicted by the name of Elizabeth Hervey, wife of Auguſtus John Hervey, Eſq., now Earl of Briſtol, and one of the Peers of this realm) be on Wedneſday, the 24th of January next, in Weſtminſter-hall."

Earl of *Marchmont*. I do not riſe to oppoſe the whole of the noble Viſcount's motion, though I think it is expreſſed in harſher terms than I would wiſh to ſee adopted by this Houſe on the preſent occaſion. What I riſe chiefly for is, one of the grounds on which it is maintained, that of its being *unprecedented* to try a Peer charged with felony at the bar of this Houſe; becauſe I believe I ſhall be able to ſatisfy your Lordſhips, that the precedents all tend the other way. From the earlieſt and moſt authenthic records, ſo early as the reign of Richard the Second, we find that no one place or chamber had the preference to another, the choice entirely reſting in the Houſe. This is plain, from their Lordſhips appointing the *Chambre Blanche* for the trial of the Earl of Arundel, in the reign of Richard the Second; which could never have been the caſe, if the conſtant uſage had been to try Peers in Weſtminſter-hall. On the point of inconvenience, I ſhall ſay nothing. The Parliament Chamber may be inconvenient, the ſolemnities of the trial may require more room and accommodation than this Houſe will permit; but what I contend is, that the poſitions ſtated in the motion, "that it is unprecedented, &c." is falſe in fact; and that it is competent to this Houſe, and not contradicted by precedent, that it may, by right and ancient uſage, appoint the trial to be held in any chamber your Lordſhips ſhall judge fit. But let us, my Lords, come nearer to our own times; let us refer to the well-known caſe of the Earl of Strafford, who being ordered to be tried at the bar of this Houſe, the Commons objected to it; and, after ſeveral reſolutions taken by both Houſes on the ſubject, a conference was appointed, at which the proof was put on the Commons to eſtabliſh the precedent. And when the Earl of Bath reported the proceedings, it appeared the Commons were obliged to reſt their arguments *ſolely* on the ground of convenience. Such was the temper of the times, joined perhaps to the prevailing diſpoſition of the Houſe at that time, that their Lordſhips conceded, and the trial was held in Weſtminſter-hall. The reaſons aſſigned by the Commons, beſides the argument of inconve-

inconvenience, were ſimilar to ſome of thoſe now urged. The neceſſary ſolemnity was much inſiſted on, ſo was the popularity. What was the conſequence of this firſt conceſſion, which was followed by ſeveral others, is totally needleſs to repeat. A caſe of a ſimilar nature happened the very next year, more immediately applicable to one part of the preſent motion; that was the caſe of Lord Mordaunt for felony. Here the ſame controverſy was renewed, and continued from the beginning of 1641, to June 1642, when the legal government being overthrown, the matter never came to be finally ſettled. On both thoſe occaſions the great Selden, to whom your Lordſhips are ſo much indebted for the very valuable manuſcripts now in your poſſeſſion; and who had, twenty years before, received the thanks of both Houſes, for his uſeful and learned reſearches into the ancient records of the kingdom, particularly into thoſe reſpecting the origin of Parliaments; was an active member of the other Houſe; and would, it may be well preſumed, have maintained the uſage of trying Peers in Weſtminſter-hall, at the conference, if in his power. That not being the caſe, I am, I think, warranted, as well on that account as that the Commons themſelves gave up the point in controverſy, and reſted all upon the argument of inconvenience and popularity, in affirming that it is *not* unprecedented to try a Peer or Peereſs indicted for felony at the bar of this Houſe. The precedents now alluded to prove this, though neither of the noble Lords were tried here, for the reaſon before aſſigned, their Lordſhips having relinquiſhed, in one inſtance, the ground of convenience, and in the other the matter having dropped, and in both the Houſe having manifeſted a ſpirit of improper conceſſion, which, in the end, terminated in their own ruin and diſſolution: not, however, objecting to the ground of inconvenience, if the noble Viſcount conſents to withdraw that part of his motion reſpecting the precedent, though I think it will ſtill have the appearance of violence and ſeverity, I ſhall not be for diſagreeing to the motion thus amended.

Earl *Gower*. I ſtill remain of my former opinion, that Weſtminſter-hall, on the ground of ſolemnity and convenience, is a much fitter place for the intended trial than the bar of this Houſe. The noble Earl who ſpoke laſt, has, indeed, confeſſed this in part. I ſhall not enter into a view of the noble Earl's ſentiments. It is ſufficient to determine, without entering into a further conſideration, that the committee

mittee have declared their opinion, that the Chamber of Parliament is inconvenient; and that no ſufficient reaſon has been yet aſſigned to ſhew the trial ought not to be held at Weſtminſter-hall. I muſt however obſerve, that the ſtate of the lady's health is at preſent very precarious; and that her mind is ſo far affected as to render her very unfit for making her defence againſt a charge of ſo heavy and conſequential a nature. It is my opinion, therefore, before we take any other ſteps, except appointing the place of trial, that we ſhould call upon her phyſicians ſome day between this and the receſs, to know what condition ſhe is in, and whether ſhe will be able to undergo the fatigue of a trial ſo early as the day appointed in the motion. If ſhe ſhould, then it will be time enough to enter upon the conſideration, and decide upon the mode and all the other circumſtances conſequent upon a trial in Weſtminſter-hall. Should the noble Viſcount approve of this propoſition, and conſent to reſt ſatisfied with this motion, reſpecting the place of trial, till we have an opportunity of learning from the lady's phyſicians her then ſtate of health, I ſhall very readily give it my aſſent.

The Lord Viſcount *Dudley*. The noble Earl who objects to the word *unprecedented* in my motion, has taken great pains to ſhew, that this Houſe have claimed a right of trying their members where they pleaſed. If his arguments went only to that, I ſhould very readily acquieſce. The poſition contained in my motion does not contradict it: it only ſtates a fact, and I defy his Lordſhip to quote a ſingle inſtance in which any Peer has been tried for felony at the bar of this Houſe, or in any other place, but in Weſtminſter-hall. That is what is ſtated in the motion; not that the Houſe may, nor cannot try a Peer of this realm for felony at your Lordſhips bar. The precedents beſides, urged by his Lordſhip, are in the reign of Charles the Firſt. I wiſh for precedents of a later date. I ſhould have been better ſatisfied if his Lordſhip had referred to ſome ſince the Revolution; for, long before that period, the trials in this Houſe were utterly diſgraceful. It was in the power of the Prince, by ſelecting a certain number of his creatures, under the denomination of a committee, to ſacrifice any man, who by his integrity or independent ſpirit had rendered himſelf obnoxious to himſelf or his miniſters. If, however, the noble Earl produces one precedent, which contradicts the terms in which my motion is conceived, I am very willing to relinquiſh the objec-

objectionable part of it; till then I ſhall remain of the ſame opinion.

The Earl of *Marchmont*. I think the caſes alluded to fairly prove what the noble Viſcount ſeems to doubt. They at leaſt prove, that the choice remains with your Lordſhips; and it ſeems to me, to be very hazardous to eſtabliſh a precedent which might, on ſome future occaſion, though not now foreſeen, eſtabliſh a doctrine of a very dangerous nature. It is a great miſtake, which prevails with many, that a fact eſtabliſhes a precedent; whereas nothing can be more different. There may have happened many facts, without laying a foundation for eſtabliſhing a ſingle precedent. Thoſe facts may have been attended with a variety of circumſtances now impoſſible to be aſcertained or decided on. That no direct proof can be produced of any Peer being tried for felony at the bar of this Houſe, may be very true; but that, in my opinion, comes very ſhort of a precedent. The preſent motion, if carried, would at leaſt imply, if not eſtabliſh ſuch a precedent, which cannot be ſupported by any rule of former proceedings. I ſhall, on that account, as well as that I take the aſſertion to be totally unneceſſary, be for having that part of the motion withdrawn.

The Lord *Lyttelton*. We are convened here this day, my Lords, merely to decide on the time and place for the trial of the perſon aſſuming the name and title of the Ducheſs of Kingſton. The committee appointed by your Lordſhips have reported that the Parliament Chamber is an inconvenient place for that purpoſe; the natural concluſion from which is, that the trial ought to be held in the uſual place of trial, which is Weſtminſter-hall. I have not heard a ſingle conſideration of the leaſt weight urged againſt it. If, indeed, it had appeared, that by any accident or uncommon circumſtance, the lady had been brought into a ſituation which would render a trial neceſſary, and in which the charge was of ſuch a nature as to beſpeak the innocence of the culprit, no one would be readier to grant every poſſible indulgence the nature and circumſtances ſuch a caſe would neceſſarily be entitled to. Is that the caſe here? No, my Lords, ſhould the lady be convicted of the charge made againſt her, ſhe will be convicted of a crime deeply affecting the peace and happineſs of civil ſociety; and, ſhould the conviction be attended with proofs of fraud and colluſion, it will appear with every poſſible aggravation of the moſt unexampled iniquity. If the lady be innocent, ſhe will ſurely be happy in having her innocence made manifeſt.

feſt: if the charge brought againſt her ſhould turn out to be true, none of your Lordſhips would, I dare ſay, wiſh to have any of the mortifications reſulting from a public trial mitigated or ſoftened, much leſs totally prevented. For my part, I think it is incumbent on your Lordſhips to make the trial as public as poſſible. It is a duty you owe to yourſelves, and to the people at large, that it be attended with every circumſtance of public notoriety and ſolemnity, to convince them of the juſtice and rectitude of your proceedings. Places where juſtice is adminiſtered ſhould be open to the eye and obſervation of the public. What will be the caſe here? There will be room for twenty or thirty perſons. This, in my opinion, would be eſtabliſhing a very dangerous precedent. It might very materially affect this Houſe, it might affect your Lordſhips poſterity, and the whole body of the Britiſh Peerage. A time might come, when a Peer may be brought to his trial at this bar, when only the ſame number would be admitted; and care might be taken to occupy the room with perſons admitted on purpoſe to miſrepreſent what had happened, which would conſequently deprive the Peerage of the privilege of a fair, indifferent, and open trial. The noble Earl, who has this day endeavoured to produce ſo many precedents, has, I think, drawn them from times very unfavourable both to public liberty and true conſtitutional government. His Lordſhip has taken them from the time of Charles the Firſt. But I truſt that the principles of the Parliaments in thoſe times were as oppoſite to the preſent as the diſpoſition of that miſtaken tyrant was to that of his preſent and moſt gracious Majeſty. As to the precedent this motion may tend to eſtabliſh, I do not pretend to decide on it. However, as it has been ſo ſtrongly objected to by the noble Earl who ſpoke early in the debate, I would recommend to the noble Lord who made the motion, to ſubſtitute the word *unuſual* for *unprecedented*, though I cannot perceive that there is any occaſion for ſuch an alteration. Much has been ſaid as to the trivial conſequences which will follow the conviction of this lady; but for my part, I think the ſolemnities attending it, the ſentence to be pronounced by the noble Lord on the woolſack, before ſo great, reſpectable, and numerous an auditory, as will be aſſembled on the occaſion in Weſtminſter-hall, will, to a feeling and ingenuous mind, be a greater puniſhment than barely ſuffering under any ſentence the law, on the conviction of any capital puniſhment, can ordain or inflict.

The

The Earl of *Sandwich*. The noble Earl to whom this Houſe has been ſo often, ſo highly, indebted for his great and extenſive knowledge in matters of order, has I think this day employed his great learning to very little purpoſe. He has found fault with the motion made by the noble Viſcount; and after all his learned reſearches, he has produced what he calls two precedents; but when we come to examine thoſe precedents, what do they turn out to be? Why, one of them is no precedent at all, for the noble Lord alluded to was never tried; and the other proves expreſsly the very contrary of what the noble Earl has endeavoured to eſtabliſh; Lord Strafford being tried in Weſtminſter-hall, and not in the Parliament Chamber. I think beſides very differently from the noble Earl, as to the effect of the motion now before your Lordſhips. In my opinion, it eſtabliſhes no new precedent, nor recognizes no old one. It ſimply ſtates a matter of fact; that it is unprecedented to try Peers, charged with felony, in the Parliament Chamber. If the noble Earl can contradict it, the matter will be at once ſettled: if he cannot, and that it does not go to impair or abridge the election or option veſted in the Houſe, to try their own members where they pleaſe, I cannot ſee any one ſolid objection to the motion, as it now ſtands.

The Lord *Sandys*. I think the option of trying any member of our own body, either here or in Weſtminſter-hall, is clearly veſted in this Houſe; nor can I ſee the two precedents mentioned early in this debate, in the ſame light with the noble Earl who ſpoke laſt; for the proof being put on the Commons, and their not being able to make it out, appears to me a very ſtrange reaſon, that the precedent was in their favour.

The Lord Viſcount *Dudley*. I have no deſire to preſs the motion, as it now ſtands, on the Houſe; yet I have not heard a ſingle reaſon offered, ſufficient to induce me to change my opinion. The firſt part of the motion ſtates a fact, which ſtill remains uncontradicted; and I believe ever will, from any thing that has hitherto paſſed on a ſimilar occaſion. The noble Lord near me, [Lord Lyttelton] has ſuggeſted an alteration, by ſubſtituting the word *unuſual* for *unprecedented*; but I think it better to omit the whole ſentence than admit of any ſuch change, which would imply what is not warranted by fact, that trials for felony, have at any time been held in the Parliament Chamber. His Lordſhip then made the motion thus amended.

The

The Earl of *Marchmont*. I believe it will be neceſſary before the ſenſe of the Houſe can be taken on this motion, that that of the 4th of November be firſt diſcharged, to make way for it; otherwiſe there will be two contradictory motions on your Lordſhips journals. One for holding the trial in Weſtminſter-hall, and the other for holding it in the Parliament Chamber.

The Lord Viſcount *Dudley*. The preſent motion may be withdrawn: as ſoon, therefore, as the other matters agreed to in the committee are diſpoſed of, I ſhall move to have the reſolution of the 4th of November diſcharged.

The Earl of *Abercorn*. I believe, that will be unneceſſary, as when we ſit in Weſtminſter-hall, it muſt be deemed this Houſe. It will, in my opinion, therefore, be a ſhorter and more regular way, to let the reſolution of the 4th of November ſtand as it is; and only add, the words "in Weſtminſter-hall," the former reſolution having made no mention of the Parliament Chamber, only "that Elizabeth calling herſelf Ducheſs Dowager of Kingſton, be tried, &c. at the bar of this Houſe," after which, only inſert "in Weſtminſter-hall," and it will meet the ideas of every ſide of the Houſe; and prevent any thing from appearing in the journals which might be conſtrued to decide the matter one way or the other.

The noble Earl's propoſition was unanimouſly approved, and the motion, thus modified, agreed to, which was as follows:

"That the trial of Elizabeth, calling herſelf Ducheſs Dowager of Kingſton, indicted by the name of Elizabeth Hervey, wife of Auguſtus John Hervey, Eſq. now Earl of Briſtol, and one of the Peers of this realm, be held on Wedneſday the 24th of January next, at the bar of this Houſe, in Weſtminſter-hall."

December 15.

Second reading of the American prohibitory bill.

The Duke of *Mancheſter*. I riſe, my Lords, to give a negative to this bill, becauſe, with all the attention I have been able to beſtow in conſidering and examining its contents, I cannot diſcover on what ground of policy, juſtice, or expediency, it can be fairly ſupported. I muſt obſerve, that the manner of hurrying, and the ſeaſon of the year at which this bill has been introduced into Parliament, in remarkable thin Houſes, at a time, I will maintain, when no buſineſs of importance ought to be brought under your Lordſhips conſideration,

deration, unleſs in caſes of the moſt urgent neceſſity, is to me one very great objection to ſending it to a committee. If we examine this bill, my Lords, we ſhall find the great principle of it to be founded in the rankeſt and moſt aggravated injuſtice. We ſhall find it involving the innocent and guilty in one common puniſhment, and, above all, we muſt lament to ſee public and parliamentary encouragement given to the ſubjects of one part of this great empire to rob, deſtroy, and pillage the other. Looking again to the ſanction of the bill, and to what is virtually to force it into operation, we find one of the fundamentals of this conſtitution invaded. The unhappy people are not only deſtined to deſtruction. They are likewiſe to be robbed and plundered; and to inſure the execution of the meaſure, the plunder is to be ſhared among thoſe who are to be employed to effect this odious, this barbarous buſineſs. The matter I allude to, my Lords, is that clauſe which authorizes the ſeizure of every ſpecies of American property, which may be found floating on the ſea, or in their ports and harbours; and ſhares the ſpoils thus taken, among the captors. This, my Lords, I will be bold to maintain, is a direct violation of that yet ſacred Palladium of our liberties, the bill of rights; a Palladium which it is not in your Lordſhips' power to alter, violate, or abridge, without an open and direct invaſion of the conſtitution. That invaluable, inalienable, and conſtitutional law, my Lords, enacts, that the property of no ſubject of this realm ſhall be ſeized or confiſcated, without previous trial or conviction. Is that the caſe here? Will any of your Lordſhips ſay, that the clauſe of this bill, which gives the ſeizure to the captors, is not the moſt violent outrage on property that can poſſibly be conceived? In the firſt inſtance, the ſhips, goods, &c. are ſeized and turned over to the Admiralty court, where they are condemned of courſe. Thus, at one inſtant, the miſchief is done, and the means of obtaining juſtice completely defeated. Part of my leiſure hours, my Lords, I dedicate to reading; and ſince this bill made its appearance in the other Houſe, I have looked into books the moſt likely to inſtruct me on this head, to ſee if hiſtory could furniſh me with a precedent of a ſimilar nature; I found but one that bore the leaſt reſemblance; and that was the conduct of the ſecond Emperor of China, of the Tartar race, who iſſued an edict, directing that all the inhabitants on the ſea coaſts ſhould burn and deſtroy their towns and their ſhipping. The edict was punctually and rigorouſly executed, and ſeveral thouſand people loſt their

lives in the cruel devaſtation. This matter now alluded to, applies equally to the juſtice and policy of the bill. My Lords, I think it is impoſſible to hear or read of the preſent ſtruggle of America, in reſiſting the oppreſſions ſhe daily ſuffers, and the accumulated horrors with which ſhe is threatened, and not be highly intereſted in the event. I feel ſimilar impreſſions, but in a ſtronger degree to thoſe made on me in reading of the actions of Alexander, as deſcribed by Quintus Curtius, or the iſſue of the battle of Pharſalia, where Cæſar gave the world a maſter. It is impoſſible, while the ſcene is yet paſſing, not to be deeply affected in the event of the preſent meaſures. My Lords, I ſhould be obliged to any of the noble Lords in adminiſtration, to riſe and inform me what is the true ground on which they mean to reſt the motives of this ruinous and unnatural war. Is it for a revenue? No, that has been diſclaimed by them in this Houſe, on the firſt day of the preſent ſeſſion; and it has been ſince frequently and openly avowed, that no revenue is expected. "It is, ſaid they, no object; and if it were, for the preſent, ſuch a ſcheme would be inexpedient, impracticable, and impolitic. We want America only to acknowledge a conſtitutional dependency on this country, an acknowledgment of the power of this legiſlature; and we then wiſh to give them perfect ſecurity and full enjoyment of their ſubordinate conſtitutional rights." Does ſuch a language, as I have now repeated, comport with the principles and apparent intentions of this bill? Are any offers held out to induce the Americans to return to their duty, and acknowledge their ſubordinate dependency? Is the claim of taxation given up, or even ſuſpended, in order to remove the apprehenſions ſuch a claim has juſtly excited in that country? No, my Lords, the whole queſtion lies at iſſue, as when the differences firſt aroſe, and war, as againſt alien enemies, is by this bill denounced and publicly declared, without a ſingle ſyllable of conciliation or conceſſion; and that with an expreſs intention of ſupporting, in the moſt immodified manner, every one claim hitherto ſet up by this country over that. When a rebellion raged in the northern part of this iſland, a rebellion fomented and carried on againſt the eſtabliſhment in church and ſtate, no ſuch prohibition as the preſent was thought on. Many of the people in that part of the kingdom, remained firm and loyal. In ſuch a caſe, an act of this nature would be impolitic and unjuſt. We have been told frequently, by ſeveral noble Lords on the other ſide of the Houſe, that great numbers

numbers of people in America continue friends to government. Why then puniſh them? Why adopt ſuch a plan of indiſcriminate injuſtice? Why involve the innocent and guilty in one general judgment?—This bill, my Lords, may eſtabliſh in future a claim, at leaſt an expectation, which, I dare ſay, your Lordſhips do not foreſee. Suppoſe, my Lords, that another rebellion ſhould break out in the northern part of this iſland, or in the ſouthern part; would not the ſoldiery, in ſuch a caſe, have as good a right to expect the plunder and confiſcations conſequent on the reduction of the rebels, as the ſeamen are given by this bill? I ſee no reaſon that they ſhould not. It would operate as an *encouragement*, and every motive would apply in one caſe that can poſſibly operate in the other. Every argument that can be urged in behalf of the innocent and unoffending part of the inhabitants of America, ſtill more ſtrongly, if poſſible, operates in behalf of the Weſt India iſlands, which by this bill are to be included in the general proſcription, without even ſo much as the ſlighteſt imputation of guilt. The Weſt Indians too are to be ſtarved and ruined, to effect the deſirable purpoſes of adminiſtration. Deſtitute of proviſions and lumber, they cannot exiſt; or ſuppoſing they could procure the former, what are they to do with their crops? Or, on ſuppoſing they could preſerve their crops, which it is well known they cannot, how is the produce to be exported to the European markets? Having ſaid thus much to the general policy and juſtice of the bill, give me leave to ſay a word or two to the expediency of it. Though the bill were perfectly juſtifiable in every other reſpect, this at leaſt will deſerve your Lordſhips moſt mature deliberation; what force can you ſend out, with ſafety to yourſelves, ſufficient to carry this *maſs* of *oppreſſion* into execution? Recruits cannot be procured on any terms. Germans, it is well known, will not anſwer your purpoſe. The Ruſſians cannot aſſiſt you, as they are likely to have employment enough nearer home: beſides, adminiſtration affect to diſclaim the ever having any ſuch intention, though I believe the contrary is well known to be true. Whence, then, are you to draw all your force? By the complexion of this bill, I would be inclined to think the whole weight of this buſineſs is thrown on the navy; but will your Lordſhips think it prudent to leave yourſelves in a great meaſure defenceleſs at home, while the affairs of the North of Europe preſent themſelves in their preſent form? I believe not. A ſtorm, I am well informed, is gathering in that quarter. Ruſſia

and Sweden are making preparations for war. Pruſſia has interfered; and France, in caſe of an actual rupture, will give Sweden its promiſed protection, and that by a fleet. In ſuch an event, I ſhall not inſiſt, that a Britiſh fleet will become neceſſary in the Baltic; becauſe I preſume that none of your Lordſhips can imagine that Great Britain would remain inactive, and ſee France ſend a naval force into the northern ſeas; and that to act againſt the power in Europe with which ſhe ſtands moſt cloſely connected and allied. My Lords, I ſhall not detain your Lordſhips' any longer. I fear I have treſpaſſed much too far already on your Lordſhips' patience. I ſhall therefore ſit down, with making an obſervation on the concluding clauſe of this bill. It is the impowering the King to grant pardon to perſons of whom you know nothing. In my opinion, it is a very improper and a very dangerous extenſion of prerogative. I have no fear that his Majeſty will make a bad uſe of it. I am ſure he will not deſignedly; but I contend, that a Prince, even of the beſt talents and firſt-rate powers of diſcrimination, cannot attain ſuch a knowledge of the abilities and characters of the perſons to be appointed under this commiſſion, as to prevent his being impoſed on and deceived, in the recommendations made to him; and that conſequently the power is an improper one, becauſe from the very nature of it, with the beſt intentions in the Prince, it is likely to be abuſed. For this, and the other reaſons before rehearſed, I am againſt committing this bill.

Lord *Lyttelton*. I confeſs I am much aſtoniſhed at the two aſſertions the noble Duke, who roſe to oppoſe this bill, ſet out with; that the bill had been brought in at an improper ſeaſon, and had been carried through thin houſes. For my part, I beg leave to think very differently from his Grace, at leaſt to draw very different concluſions. The neceſſity of the preſent bill juſtifies the bringing it in at the time; and I imagined I ſhould never hear the objection of non-attendance ariſe from that ſide of the Houſe. If the bill has been badly attended on the part of oppoſition, in the other Houſe, whoſe fault is that? Is a breach of public duty in them to be imputed as a crime to their adverſaries? I ſhould imagine it is rather an argument in the favour of adminiſtration. If we turn to the other part of the noble Duke's aſſertion, we ſhall find it equally ill founded. The bill took a due time in paſſing through its ſeveral ſtages, and was full and ſolemnly debated in its progreſs, clauſe by clauſe. The noble Lord who conducts the public buſineſs of the nation in the Houſe where

where it originated, ſuſtained the whole weight of oppoſition: obviated the ſeveral objections that were made to it in the courſe of thoſe debates, and convinced the independent part of the Houſe of its utility and neceſſity. Such being the circumſtances attending this bill, I am authoriſed to ſay, that it was neither brought in an improper ſeaſon, nor was it indecently hurried. No charge of the latter kind can, in my opinion, therefore, be made againſt adminiſtration. On the contrary, it is well known, and now confeſſed on all hands; indeed, the noble Lords on the other ſide have urged it is a fault that adminiſtration has committed, that they *delayed* inſtead of *hurried*, the neceſſary meaſures for reducing this obſtinate and rebellious people; from motives of lenity and wiſhing to prevent the effuſion of blood, and the horrid devaſtation conſequent on a civil war. And I am not certain, that all the miſchiefs that have ſince happened may not in a great meaſure be attributed to miſtaken motives of humanity. The noble Duke ſays, the preſent bill, by confiſcating the property of the Americans, is a violation and invaſion of the bill of rights, becauſe it gives the property taken to the captors, without a legal previous conviction. Does not the preamble of this bill affirm the Americans to be in open rebellion? Is not then the proof of the property following ſuch a declaration of the legiſlature, and that founded on innumerable acts of hoſtility committed againſt the King and Parliament, a full and legal conviction. My Lords, it will be ſaid, perhaps, that America is not in rebellion? What, then, can we call rebellion, if this be not? They have attacked our troops, ſeized the King's forts and military magazines. They have, as far as it was in their power, cut themſelves off from this country, by prohibiting every kind of trade and commercial intercourſe with it. If this be not a ſtate of open war, hoſtility, and defiance, I am ſure I cannot tell what is. Have not thoſe unnatural coloniſts, to rebellion, added all the circumſtances of rapine and public robbery? Have not they been baſe enough, under the treacherous pretence of defending the Canadians, to commit the moſt notorious acts of oppreſſion and injuſtice? and have not the people of Canada been compelled to take up arms againſt them, in order to reſiſt the univerſal *brigandage* that muſt have been the conſequence, if they any longer continued paſſive, or did not riſe in defence of their property, daily wreſted out of their hands by the moſt ſhameful acts of violence? I lately ſaw a letter from that country, in which this reaſon is directly aſſigned, that at length they found it neceſſary to

arm and defend themſelves; the words were the very terms I have now uſed, *contre brigandage*, againſt this public *robbery* and *extortion*. My Lords, the noble Duke tells you, that a ſtorm is gathering in the North, which may find ſufficient employment for our fleet in Europe. Are then all the terrors of a rupture with France, in caſe this war ſhould continue for any time, at once abandoned by his Grace, and his friends on the other ſide of the Houſe; and do they now falſify their own predictions, delivered with ſo much confidence, in order to hold up freſh bugbears of their own creating? We have now no longer any fears of an invaſion from France. Our coaſts are no longer in danger from that formidable enemy, who, according to the noble Duke's information, is to be employed elſewhere. Sweden and Ruſſia are preparing to attack each other. Pruſſia and France are to take reſpective ſides in this quarrel. What, then, does this amount to; but that France, jealous of the encreaſing power of Ruſſia, and in compliance with her engagements entered into with Sweden, will take a part in thoſe diſputes? Does not this prove to a demonſtration, that France, operated on by her jealouſies, and obliged by her treaties with Sweden, can never think of preventing or interrupting us in the proſecution of reducing our rebellious ſubjects. Such an attempt would be madneſs in any event; but on the preſent occaſion would be directly militating againſt her own views. But ſuppoſing, my Lords, that the matter really ſtood as the noble Lords in oppoſition have frequently ſtated it, in the courſe of the laſt and preſent ſeſſion; I will ſuppoſe, what I am ſure is not the caſe, that it was both the intereſt and intentions of France and Spain, to prevent us from reducing our rebellious coloniſts into a ſtate of legal obedience and conſtitutional ſubmiſſion, and that if we perſiſted in our declared reſolution of aſſerting our rights, that we muſt expect to be engaged in a war with the united force of the Houſe of Bourbon. Would that be a motive with your Lordſhips, for ſubmitting to your rebellious ſubjects in the preſent conteſt? I think it would not. I am ſure it ought not. If a dread of a war with thoſe powers ſhould be a ſufficient reaſon for ſuch a diſgraceful, *ſpiritleſs* conduct, I am well convinced it would have a direct contrary effect. Thoſe powers would ſoon conclude, that a nation which had *not* power or force ſufficient to coerce its own members, would be no longer a formidable enemy. They would look upon you *as an abject*, tame, mercenary people, who from a mere love of

of lucre, would conſent to ſacrifice all the pride, dignity, and ſuperior intereſt of yourſelves and poſterity, rather than ſuffer a temporary inconvenience, or forego for a while the advantages derived from a commercial intercourſe with your colonies. They, in fine, would look on you as a nation of merchants, from whom *nothing* was to be *feared*, totally emptied of that ſpirit of warfare, on every proper occaſion, that martial ardour, native proweſs, and thirſt of fame, which have hitherto rendered you juſtly formidable and terrible to your enemies. Therefore, I contend, my Lords, that it is doubly incumbent on you to exert yourſelves, even as a means of keeping your natural enemies and ambitious neighbours in that ſtate of awe and reverence towards you which will be always one of the beſt bulwarks of the national ſafety, and your own domeſtic tranquillity. My Lords, though I wiſh ſincerely that America, ſhould ſhe perſiſt obſtinately to reſiſt the conſtitutional and equitable claims of this country, may be compelled to acknowledge them, yet I do not deſire that the people of that country ſhould be abridged of their ancient privileges; ſuch, I mean, as are conſiſtent with the common intereſts of both countries; ſuch as it is proper for us to grant or confirm, and for them to retain or enjoy. And whenever they return to a proper ſenſe of their duty, I ſhall very readily give my ſupport to any plan which may be the moſt likely to heal the unhappy wounds that have been already given, and for receiving them once more into the boſom of the mother country. The noble Duke has beſtowed the hardeſt names he could poſſibly invent on this bill; and, to ſhew the folly, as well as injuſtice of it, aſks what it is we are contending for? Says the noble Duke, the claim of taxation has been given up. It has been relinquiſhed on the idea of its impracticability and inexpediency. I deny it. I contend it never has; and we know, that the main ſupport given to it in the other Houſe, as well as to the general meaſures reſpecting America, was on the ſuppoſition that a revenue *is* expected to be obtained from America towards alleviating part of the heavy burdens at preſent borne by this country. We know theſe are the wiſhes and ſentiments of the country gentlemen in the other Houſe; men of the moſt independent principles and moſt ample fortunes in the kingdom. I will not pretend to ſay to what amount, or in what mode, America ought to be compelled to contribute. Perhaps, in their preſent ſtate and condition, the aſſiſtance they would be able to give to the mother country would be but

ſmall; but, I inſiſt, a foundation ought to be laid, in the firſt inſtance, which ſhould keep a proportion with their abilities, and that it ſhould be framed with a particular view to that object, ſo as to oblige them to ſhare the burdens, in proportion as they ſhared and enjoyed the advantages of this government: I do not pretend to point out the propereſt or moſt expedient mode of executing this plan; whether by taxes or cuſtoms, commercial duties, or by requiſition; thoſe are queſtions of policy, that do not interfere with the principle it is our buſineſs firſt to eſtabliſh, the principle of compelling them to acknowledge the right; afterwards it will be time enough to look to the policy and the moſt expedient means of effectually carrying it into execution under the conſideration of the general intereſts of the empire, as well as to the local circumſtances applying to the particular ſituation of either or both countries.

The Duke of *Richmond*. I entirely agree with the noble Duke, who roſe to oppoſe the committing of this bill, in every particular opinion he delivered on it. I think it a moſt unjuſt, oppreſſive, and tyrannical meaſure; it will be therefore underſtood, my Lords, that in the courſe of what I ſhall offer againſt any clauſe which, on account of its cruelty and injuſtice, may ſtrike me, more particularly that when I dwell on that point, I by no means approve of thoſe other parts, on which I ſhall forbear to animadvert, or perhaps ſlightly paſs over. I perceive, my Lords, that this bill is a formal denunciation of war againſt the colonies; and, on that ground, is not to be combated with arguments only applicable to a ſtate of tranquillity, or even ſome ſorts and degrees of civil diſorder. Though I totally diſapprove of ſuch a war, and the principle on which it is entered into, I am ready to confeſs, that many things are juſtifiable in ſuch a ſtate of things, on which the moſt obdurate and inhuman minds would contemplate with horror in any other. I know, that it is looked upon not only juſtifiable and gallant, but an act of meritorious duty, for an officer or a ſoldier to diſguiſe himſelf in woman's clothes, and in that diſguiſe to ſtab a centinel on his poſt. I know, too, that men of the higheſt and moſt exalted honour have not ſcrupled to come at ſecrets under the ſacred ſeal of confidence, and turn the information to the deſtruction of their enemies, when it was believed that thoſe acts of horror and treachery promiſed to be means of promoting the deſigns, and furthering the views and ſucceſs of their friends, and the cauſe they were engaged in. But, my

Lords,

Lords, where no view of this kind can be anſwered; where no one deſirable purpoſe can be obtained, I ſhall always oppoſe an act of wanton cruelty; and I may add, on this occaſion, of impolicy; as, I will venture to predict, it will only exaſperate thoſe againſt whom it is intended, and render them more deſperate, determined, and enraged againſt their mercileſs perſecutors and oppreſſors. It is the clauſe I have now under my eye, for compelling ſuch perſons as may be taken in the ſhips and veſſels deſcribed in this bill to enter on board his Majeſty's ſhips of war. Such a compulſion is, in my opinion, a moſt aggravated act of cruelty. You not only deprive them and ſtrip them of their property, but, by violence, force them, at the peril of capital puniſhment, to ſerve you, as being under the act of Parliament for regulating our naval forces, and thus make them liable to ſuffer as deſerters, contrary to the eſtabliſhed uſage obſerved in reſpect of men preſſed into his Majeſty's ſervice. You even do worſe, you compel them to fight againſt their fathers, brothers, and neareſt relations; and that, too, contrary to the conviction of their own conſciences; and ſhould they refuſe to execute the barbarous ſervice with rigour and punctuality, you then are authorized by the law juſt mentioned to ſhoot them for a breach of duty. This, my Lords, if I had no other objection to the bill, I muſt confeſs, operates very forcibly on my mind; and I would recommend to the noble Lords in adminiſtration to amend or totally omit this clauſe in the committee; and not, by a wanton, *unneceſſary* act of power, add to the horrors conſequent on a war of ſo cruel and barbarous a nature. I beg leave to remind your Lordſhips, once more, that I do not mean, by pointing to this clauſe, to give any ſanction to any one part of the bill. All I would wiſh is, to intimate to its friends and ſupporters, that this bloody clauſe, this proviſion of wanton barbarity, even on their own principles, is totally unneceſſary. The noble Lord ſays, the preſent meaſures purſuing againſt America are popular; and that oppoſition have taken up, for once, the unpopular ſide of the queſtion. I fairly aſſent, in part, to the noble Lord's aſſertion; for I believe the people were never more divided in their ſentiments than at preſent; but, while I allow this, I do not aſſent to the aſſertion in the latitude the noble Lord has ſtated it. In the words of a noble Lord, in a former debate, [Lord Camden] we have ſcarcely ſeen an addreſs that has not ſpawned a petition. We have been told, by ſeveral noble Lords in adminiſtration, that America too is divided; and I believe it may. At leaſt, we

have

have many reaſons to believe that they are far from being unanimous. What will, in all probability, be the conſequence of this bill, but at once to put an end to all diviſions, and to render them unanimous? Yet, ſuppoſe the contrary, will not this bill involve thoſe who think this country in the right, thoſe who have retained their loyalty, and remained firm in their obedience, in one common puniſhment with the moſt determined, open and violent enemies and oppoſers of the Britiſh Parliament? The former will be liable to have their ſhips ſeized, their goods and merchandizes confiſcated, their perſons preſſed, as well as the latter. Beſides, I believe this clauſe is contrary to the uſual mode adopted in regard to perſons preſſed to ſerve aboard his Majeſty's ſhips of war, who are never ſubjected to capital puniſhments for deſertion. The noble Lord has given as a proof of the general opinion of the people reſpecting this war, and particularly thoſe concerned in the Weſt-India trade, that if the ruin of the Weſt-India iſlands was to be a conſequence of it, the people of a borough in his neighbourhood [the town of Bewdley] would never have taken the part they have done; a town which, his Lordſhip ſays, carries on a twelfth part of the export trade to thoſe iſlands. I admire the noble Lord's accuracy of computation. It is the firſt time that I have heard a matter of ſuch importance ſo minutely and correctly ſtated; and it is the firſt time I ever heard that Bewdley was a place of ſuch conſequence, or that it carried on ſo great and extenſive an export trade. But, my Lords, allowing that the borough of Bewdley adviſed with the noble Lord, and offered to addreſs his Majeſty unſolicited, as his Lordſhip ſays: ſuppoſing likewiſe that they were unanimous in their ſentiments, I ſtill beg leave to think that the Weſt-India planters, and the great body of merchants concerned in the Weſt-India trade in the cities of London and Briſtol, are full as reſpectable an authority as the addreſſes from the town of Bewdley; and to ſhew that the preſent bill will very materially affect the ſugar iſlands, ſhould it be paſſed into a law, they appeared the laſt year at your Lordſhips bar, and this year at the bar of the other Houſe; but I believe they will hardly trouble your Lordſhips on the preſent occaſion, for experience has taught them to deſpair of obtaining any ſort of redreſs. It is too often a misfortune in this country for perſons to entertain very different ideas when in and out of employment. I heard the noble Lord with great pleaſure, on the firſt of this ſeſſion, expreſs ſentiments of a very different nature; and, ſtill retaining my

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former opinions, I cannot ſay but I approved much better of the ſpeech then delivered than of the ſentiments now ſo warmly and ſo ably urged by his Lordſhip. When I make this curſory obſervation, I cannot but ſuppoſe that his Lordſhip's change of opinion has riſen purely from conviction. On the whole, my Lords, I pronounce this bill, both in principle and in all its proviſions and clauſes, like thoſe it is to ſucceed, and to be fraught with all poſſible injuſtice and cruelty. I do not think the people of America in rebellion, but reſiſting acts of the moſt unexampled cruelty and oppreſſion. [*Here a cry of order, order.*] I do not retract a ſyllable of what I have ſaid. I think I am juſtified in the expreſſion by the uniform cuſtom and uſage of Parliament, which ſecures to its members the freedom of debate, or why elſe are they at all permitted to deliver their opinions? If the injuſtice of the bill be manifeſt, becauſe it proceeds on an idea which is falſe in fact, that the colonies are in open rebellion, the proviſions of it are no leſs cruel. They ſubject the property of the *innocent* and unoffending to confiſcation, without a trial; they give an undue preference to the navy over the army; or elſe eſtabliſh a precedent of a moſt dangerous and alarming tendency, that of giving the poſſeſſions of one part of the ſubjects of the ſame empire to thoſe employed to reduce them; but, more than all, they authorize an act of the moſt wanton and horrid cruelty, that of obliging ſuch as are taken in the act of trading, for their maintenance and ſupport, to enter and ſerve on board his Majeſty's ſhips of war.

The Lord *Lyttelton*. I do not at all think it decent or parliamentary to allude to any thing ſaid in a former debate; I am ſure ſuch a conduct has been always diſcountenanced in this Houſe. I am happy, however, in ſeeing ſo full a bar, that I may have an opportunity of exculpating myſelf from charges and inſinuations equally ill founded and unjuſt. I cannot ſay that I literally remember the words that fell from me on the occaſion alluded to; but I think my memory will ſufficiently ſerve me to recollect the material ſcope and tendency of what I then urged. In relation to the foreign troops, I thought then, and I have not ſince changed my opinion, that the previous conſent of Parliament was neceſſary to legalize that meaſure; that nothing could juſtify it but the neceſſity; and that an act of indemnity was requiſite, in order to quiet the juſt apprehenſions which ſuch a meaſure ought to occaſion in the breaſt of every perſon who wiſhed well to the conſtitution

tion of this country, as eſtabliſhed at the Revolution, if the neceſſity was not ſtated, as the only true ground of juſtification. What happened afterwards? A bill of indemnity was brought into and paſſed the other Houſe; it came to a third reading in this Houſe; and ſuch was the extraordinary conduct of the noble Lords in oppoſition, that they oppoſed it; and ſeveral Lords in adminiſtration uniting with them, on a different ground, the bill was loſt and rejected unanimouſly. Whether the noble Duke's friends and partizans, or I, acted moſt conſiſtently on that occaſion, I ſubmit to your Lordſhips—As to the general meaſures to be purſued againſt America, I will remind your Lordſhips, that I voted and ſpoke uniformly in the ſentiments I have this day maintained till the firſt day of the preſent ſeſſion; and on that day, too, I only differed from adminiſtration, becauſe I thought meaſures of ſuch wide and important extent, recommended from the throne, called for information the miniſters ſeemed unwilling to give, or abſolutely refuſed. Ignorant as I then was, I very properly refuſed to ſupport meaſures, the object of which, and the means of executing, I was totally a ſtranger to. On that ground alone I refuſed to co-operate with adminiſtration. Here the matter reſted till his Majeſty's ſervants thought proper to give me that kind of information I thought neceſſary to direct me in my future conduct. They were pleaſed to repoſe a confidence in me, which I hope and truſt I ſhall never abuſe; and which perfectly ſatisfied me that their views were ultimately founded in wiſdom, and directed to ſuch objects as promiſed to give and enſure the moſt happy and deſirable termination to the preſent unhappy diſputes. Thus convinced of the rectitude and wiſdom of adminiſtration, I accepted of the place I now enjoy; but upon no other terms but thoſe I have mentioned. I have always acted, and ſhall continue to act, on the moſt conſciencious motives, and upon reaſons of the moſt perfect conviction. I do aſſure your Lordſhips, that I have never ſwerved from my integrity in a ſingle inſtance. As to the place I have been appointed to, I received it as a mark of his Majeſty's moſt gracious inclinations towards me. I have always looked upon it, in point of emolument, to be a matter of very trivial conſideration. My fortune is too conſiderable to regard it in any other light. I did not ſeek it. I did not act the ſervile part of a placeman or a penſioner, by meanly ſtooping to apply and beg for it; and expect and think I have a right not to be in-

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cluded among ſuch as do; for, if it was an object of moment, which it is not, I never ſhall ſacrifice my opinion to any perſonal or private conſideration. I own I am greatly aſtoniſhed to hear the noble Duke, who ſpoke laſt, affirm, that America is not at preſent in a ſtate of rebellion, though his Grace knows that the coloniſts have been declared rebels by the moſt ſolemn declarations Parliament is capable of expreſſing; by acts of the whole legiſlature, ſtamped with the authority of King, Lords, and Commons. This, my Lords, I think, is a precedent that ſhould not be endured in this Houſe, and till the authority of it is again reſtored, I ſhall never think that we can expect to have a proper obedience paid to the dignity of Parliament. I think that laws, the juſtice of which are arraigned and condemned by ſome of the very perſons who are ſuppoſed to have a hand in framing and aſſenting to them, will always loſe a conſiderable part, if not all, their efficacy, while ſuch liberties are permitted to be wantonly taken with them. I know, if I was an American, and if I retained any doubt of the part I ought to take on the preſent occaſion, and was to learn that a noble Lord in this Houſe contended that the meaſures propoſed by this bill were founded in injuſtice and cruelty, and that oppoſition to ſuch meaſures was juſtifiable, I muſt confeſs it would go a great way in ſatisfying and removing my doubts, and in determining my future conduct. I perfectly coincide in the opinion of Cicero, who was an actor in the ſcenes immediately preceding the deſtruction concerning the liberties of Rome, that ſuch an improper licentious uſe of liberty is totally deſtructive of its eſſence. His expreſſion was extremely applicable on the preſent occaſion, *immoderata licentia conſcionis*. As well therefore on that account, as the general impropriety of ſuch a conduct, I muſt tell the noble Duke, that if he ſhould repeat the ſame ſentiments, that I mean to take the ſenſe of the Houſe, whether it be conſiſtent with the decorum and dignity of their proceedings, to permit ſuch an improper liberty of ſpeech to paſs without a proper animadverſion and cenſure.

Duke of *Richmond*. I imagine, if the noble Lord had properly conceived my meaning, he could never have poſſibly drawn ſuch inferences from my expreſſions. What I ſaid then, and what I ſtill maintain, is, that, as a member of this Houſe, I have a full right, as long as the freedom of debate is held ſacred, to deliver my opinion without reſerve. The point immediately under the conſideration of

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the Houſe, is the preſent bill: the bill aſſerts, that the Americans are in rebellion; I ſay they are not, and ſtate that as my reaſon for oppoſing it. Is this indecent? Is this unparliamentary, or contrary to the uniform and eſtabliſhed uſages of this Houſe? The noble Lord ſays, that I ought, and am bound to confine myſelf to the immediate ſubject of debate; and that I am diſorderly, and deſerve the cenſure of your Lordſhips, ſhould I violate the uſual mode of debating queſtions in this Houſe. In this I perfectly agree with his Lordſhip; but I would be much obliged to the noble Lord to direct me how to proceed, ſo as to debate, and yet entirely keep clear of the ſubject. For inſtance, I ſhould particularly thank his Lordſhip if he would inſtruct me how to expreſs my diſlike to the bill now before us, without pointing out the grounds and motives of that diſlike. I think the bill is in its principle, and all its parts, unjuſt, impolitic, and inexpedient. How then can I ſupport my aſſertion, but by arguing againſt its impolicy, injuſtice, and inexpediency. But, ſays the noble Lord, though you oppoſe the bill, and diſapprove of it, you ſhould not arraign acts of Parliament: you ſhould not queſtion nor condemn the acts of King, Lords, and Commons, for ſo long as they remain and continue to be the law of the land, it is indecent and unparliamentary to find fault with them. Does his Lordſhip mean to puſh this doctrine as far as it will go? or does he wiſh to employ it only to a particular purpoſe, to anſwer that of the preſent debate? In either event I fancy his Lordſhip will find himſelf much miſtaken. For inſtance, I ſay the preſent bill is cruel, oppreſſive, and tyrannic. I contend, that the reſiſtance made by the coloniſts is in conſequence of other acts, equally oppreſſive, cruel, and tyrannic; and thus I prove that this reſiſtance is not rebellion, but that the Americans are reſiſting acts of violence and injuſtice; conſequently that ſuch a reſiſtance is neither treaſon nor rebellion; but is perfectly juſtifiable in every poſſible political and moral ſenſe. The noble Lord ſeems deſirous of calling the cenſure of the Houſe on me. If I have been diſorderly, I am ready to abide by the ſenſe of it. I think I have not; and relying on that opinion, I neither withdraw nor retract my former expreſſions; and am very ready to indulge his Lordſhip, by taking the ſenſe of the Houſe, whether or not I deſerve its cenſure.

Earl of *Denbigh*. As an old member of this Houſe, I think with the noble Lord who ſpoke early in this debate, that the expreſſion of the noble Duke is extremely reprehenſible and diſorderly. The noble Duke may, it is true, deliver

deliver his opinion freely on the queſtion immediately before the Houſe, be it what it may; but I contend, that he is bound to confine himſelf ſolely to that, and not to go out of it. Nor is any Lord in this Houſe, in debate, warranted in charging an act of the King, Lords, and Commons, with tyranny and injuſtice. If this licentious uſe of the freedom of debate were indulged, it is impoſſible to ſay where it might ſtop. Any noble Lord might riſe in his place and affirm, that his Majeſty was an uſurper, and that George the Third had no right to the crown of this realm. I contend, therefore, that by the laws and conſtitution of this realm, any expreſſion may be as well juſtified, under the claim of exerciſing the privilege of ſpeech; as that, America is not in rebellion; or that reſiſtance to the acts of the Britiſh Parliament, is no more than reſiſtance to the moſt wanton acts of tyranny and oppreſſion. And I do openly contend, that thoſe who defend rebellion, are themſelves little better than rebels; and that there is very little difference between the traitor and he who openly or privately abets treaſon.

Duke of *Richmond*. The noiſe your Lordſhips have heard has reached below the bar, and muſt convince you that the noble Earl who ſpoke laſt has been heard there. But I will tell his Lordſhip, that I am not to be intimidated or deterred from my duty by loud words. Such exertions of mere ſound will not prevent me from punctually performing my duty. The noble Earl ſays, I have explained away my meaning. I believe his Lordſhip would not have maintained ſuch an aſſertion, if he knew properly the difference between explaining, and explaining away. The noble Earl, as a collateral proof of his knowledge of the forms and orders of this Houſe, ſays, he is an old member. I believe I am almoſt as old a member as his Lordſhip; at leaſt, I have ſat near twenty years here; and I cannot be perſuaded that I have offended againſt any eſtabliſhed rule or form of this Houſe. As to the point of explaining away my meaning, I muſt remind his Lordſhip, that I do not mean to retract any thing I have ſaid; and if he has properly attended to my explanation, he will be convinced, that what I aſſerted at both times, ſubſtantially correſpond with each other; if he ſhould think otherwiſe, I now take the opportunity of informing the noble Earl, that I ſtrictly adhere to the firſt expreſſions I uſed; and am ready to abide the ſenſe of your Lordſhips, who are to determine whether or not I have tranſgreſſed. As to the expreſſion of traitor, the

the noble Earl has ſo freely applied, I believe there are no traitors in this Houſe now a days.

The Earl of *Sandwich*. I am an older member of this Houſe than either the noble Duke or noble Earl. I have ſat here theſe ſeven-and thirty years, and am happy in teſtifying, ſince my firſt knowledge of Parliament, that I never ſaw the debates in this Houſe conducted with greater propriety and decorum during my acquaintance with it, than in the courſe of this buſineſs reſpecting America. I am, my Lords, extremely unhappy, when I am a witneſs to ſuch altercations as theſe: they always impede public buſineſs, anſwer no one ſubſtantial or beneficial purpoſe whatever, and are only productive of ill-humour. As to the point of order, if I may be permitted to ſtate my pretenſions, as one of the old, if not the oldeſt member of this Houſe, I have always ſeen it obſerved, as a conſtant rule of debate, never to condemn any act of Parliament, unleſs on a motion for its repeal. In every other reſpect, I am of opinion that the noble Duke was perfectly juſtifiable, ſo long as he confined himſelf to the ſubject matter of the bill; but I at the ſame time contend, that he had no right to go out of the queſtion, to inveſtigate or deliver his ſentiments upon points not under the conſideration of the Houſe. As ſome objections have been ſtated againſt this bill, which immediately apply to the buſineſs of the department, over which I have the honour to preſide, I look upon myſelf particularly called upon to give every ſatisfaction in my power. Two objections have been ſtated againſt the preſent bill, by the two noble Dukes who have oppoſed its commitment. The firſt noble Duke complains of the injuſtice of this bill, becauſe it gives the ſpoils taken from the enemy to the captors. Is this unuſual? I am ſure it is not. It has been ſo the two laſt wars carried on by this country. I do not know of a more meritorious ſet of men than our ſeamen, nor none more deſerving of every degree of public encouragement; beſides the general motives of executing their duty with attention and punctuality, the proſpect of ſharing the captures among the officers and ſeamen will be a very great means of ſpeedily manning our navy without expence. It has likewiſe been much relied on, by the noble Lords in oppoſition, that this bill confounds the innocent with the guilty; but I believe your Lordſhips will perceive that very few can be claſſed in the former deſcription, as the terrors of the continental and provincial congreſſes

greſſes have compelled almoſt every man in that country to take a decided part. I ſhall not detain your Lordſhips, at this late hour of the night, by going into a long detail of proofs; I ſhall only mention two inſtances, to ſatisfy your Lordſhips of the cruel and cowardly diſpoſition of the Americans, by ſtating to your Lordſhips, that they have even tarred and feathered three women, and have put an innocent free negro to death, attended with every circumſtance of cruelty and baſeneſs. The free negro's name was Jerry, and he was worth ſeveral hundred pounds. This man, in an unguarded minute, ſaid, that if any of the King's ſhips came to that quarter, or the port where he reſided, that he would pilot them ſafely up. This being reported to the committee, a mock tribunal was appointed to try him, and he was acquitted for want of evidence. Not ſatisfied with this firſt attempt on the man's life, another negro, not a free one, was ſuborned to repeat the charge, on which the unhappy man was condemned and executed, though the evidence of the ſlave ſhould not have, according to the colony laws, been received againſt a free man. There was another particular circumſtance happened relative to this horrid affair, which was, that although the negro recanted every ſyllable he had ſworn againſt Jerry, and owned that all he ſaid on the trial was a lie, yet Jerry was nevertheleſs put to death. The noble Duke who ſpoke laſt ſeems to lament greatly the cruelty of obliging ſuch ſeamen as are taken aboard the American veſſels to enter aboard his Majeſty's ſhips of war. For my part, I think very differently from the noble Duke. Inſtead of an inſtance of cruelty or oppreſſion, I think it is doing them rather a favour, as you put them into inſtant pay; beſides, though this bill were never paſſed, if we ſhould want ſeaman to man our navy, and it ſhould become neceſſary to iſſue preſs-warrants, the perſons compelled by the clauſe to enter, would be liable to be preſſed. So that in that view of the matter this bill creates no new hardſhip. Suppoſe, my Lords, that we ſhould be inclined to alter or modify this clauſe, as the noble Duke ſeems deſirous, you would not, it may be preſumed, after you had thoſe men in your power, put them in a ſituation again to reſiſt you. What, then, are you to do? In the caſe of priſoners taken in a foreign war, we know they are brought home and confined in priſon, and detained here till a peace enſues, or they are exchanged upon cartel during the continuance of the war; but in the preſent caſe, the matter being new, and no proviſion being made, and in

fact in the event of a want of men, the perſons found aboard Britiſh ſhips being liable to be preſſed, I am of opinion the clauſe on theſe ſeveral grounds entirely unobjectionable. I am ſure I am much obliged to your Lordſhips for the indulgence you have ſhewn, by hearing me ſo patiently. I ſhall not detain your Lordſhips much longer, I ſhall only ſay a word or two to the point urged by the firſt noble Duke who ſpoke in this debate. That noble Duke ſays, that a ſtorm is gathering in the North: that his Majeſty's miniſters ſhould not truſt to the aſſurances of foreign courts; and that we ought not in proſecuting this war againſt our rebellious ſubjects, to render ourſelves by a miſplaced confidence in thoſe aſſurances, defenceleſs at home, and liable to beſurprized or attacked by our natural enemies. I do not pretend to ſay exactly what may be the effect of the preſent diſputes in the North; but I will tell the noble Duke that we do not truſt to the aſſurances of foreign powers; and that if ſuch a meaſure ſhould happen to be neceſſary, that we ſhall be able, at a very ſhort warning, to fit out a fleet and ſend it into the Baltic: and further to aſſure his Grace, that, by the preſent plan of operations, we ſhall not have a ſingle line of battle ſhip in America, as three fifty gun ſhips will be ſent to replace the three line of battle ſhips now ſerving on that ſtation; and that conſequently we ſhall have ſuch a formidable force at home, ready to act upon any emergency that may ariſe during the progreſs of this buſineſs, as will not only be fully ſufficient to protect ourſelves againſt any attack our enemies might meditate; but likewiſe to adopt ſuch other meaſures of vigour and effect as the particular ſtate of affairs in Europe might render neceſſary or expedient.

The Lord *Wycombe* [Earl of Shelburne.] In whatever view this bill, both in principle and the mode of enforcing that principle, preſents itſelf, it appears to me to be fraught with every accumulated ſpecies of impolicy and injuſtice. I ſhall, in the few obſervations I propoſe to make on it, deliver my mind freely; on this, however, as on all former occaſions, looking upon myſelf at liberty to alter my opinion, and to regulate my judgment merely on the merits of the matter under debate, combined with its own particular circumſtances, not by any collateral motives, which do not properly relate to the queſtion before me. The firſt matter that forces its way to your Lordſhip's conſideration, on peruſing this bill, is the principle which to me appears no leſs cruel than impolitic. It is, as it has been well obſerved

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in the courſe of this debate, and to which I have not as yet heard a rational anſwer, to the laſt degree cruel and unjuſt, becauſe it involves the innocent in one common puniſhment with the guilty. It is impolitic, becauſe it will throw the people into a ſtate of deſperation, and of neceſſity force them to take up arms in their own defence; ſo that it will have the double effect of transforming your friends, ſuch as have hitherto continued ſo, into the moſt inveterate enemies, and inſpiring both friends and foes with the moſt enthuſiaſtic and deſperate reſolutions of reſiſting a coercion that leaves them no other alternative but ſubmiſſion to the moſt abject ſtate of ſlavery, or of ending in their complete deſtruction, unleſs they ſhould prevail in the conteſt. But, my Lords, I have a ſtronger objection to the principle of the bill than even that I have now ſtated. It proceeds on the idea that America is in rebellion to the juſt authority of this country. I deny it. I contend they have been in part, if not entirely, forced to take up arms in defence of their property, which has been attempted, by the acts of this legiſlature, to be wreſted unjuſtly out of their hands. They have been taxed by the Britiſh Parliament, for the purpoſe of raiſing a revenue. They have been thereby deprived of the inalienable privilege of a Britiſh ſubject, that of voting away his own money, of judging of the quantum, and of the propriety of entirely withholding it, ſhould he not approve of the uſes or purpoſes to which it may be intended to be applied. Beſides this general unqueſtionable ground I have now ſtated, taxation has been attempted to be carried into effect, contrary to the uſual mode, to the antient uſage of requiſition. I therefore contend, that the principle of the bill is ill founded, and unjuſt in the firſt concoction; and therefore that the idea is falſe, on which it proceeds, for the coloniſts are not in a ſtate of rebellion, but are armed in ſupport of their juſt, their inalienable and conſtitutional rights, thus openly invaded and attacked. The noble Earl in office has aſſigned every reaſon for inſerting the clauſe in this bill, which has been objected to by the noble Duke, but what appears to me to be at the firſt bluſh the moſt obvious. His Lordſhip ſays, that in a foreign war we ſecure all priſoners which fall into our hands in priſon; but that we will not know how to diſpoſe of thoſe which may be taken on the preſent caſe, as no proviſion has been made in the bill for that purpoſe. But if the noble Earl will permit me, I will tell him, what appears the true motive for inſerting that

have many reaſons to believe that they are far from being unanimous. What will, in all probability, be the conſequence of this bill, but at once to put an end to all diviſions, and to render them unanimous? Yet, ſuppoſe the contrary, will not this bill involve thoſe who think this country in the right, thoſe who have retained their loyalty, and remained firm in their obedience, in one common puniſhment with the moſt determined, open and violent enemies and oppoſers of the Britiſh Parliament? The former will be liable to have their ſhips ſeized, their goods and merchandizes confiſcated, their perſons preſſed, as well as the latter. Beſides, I believe this clauſe is contrary to the uſual mode adopted in regard to perſons preſſed to ſerve aboard his Majeſty's ſhips of war, who are never ſubjected to capital puniſhments for deſertion. The noble Lord has given as a proof of the general opinion of the people reſpecting this war, and particularly thoſe concerned in the Weſt-India trade, that if the ruin of the Weſt-India iſlands was to be a conſequence of it, the people of a borough in his neighbourhood [the town of Bewdley] would never have taken the part they have done; a town which, his Lordſhip ſays, carries on a twelfth part of the export trade to thoſe iſlands. I admire the noble Lord's accuracy of computation. It is the firſt time that I have heard a matter of ſuch importance ſo minutely and correctly ſtated; and it is the firſt time I ever heard that Bewdley was a place of ſuch conſequence, or that it carried on ſo great and extenſive an export trade. But, my Lords, allowing that the borough of Bewdley adviſed with the noble Lord, and offered to addreſs his Majeſty unſolicited, as his Lordſhip ſays: ſuppoſing likewiſe that they were unanimous in their ſentiments, I ſtill beg leave to think that the Weſt-India planters, and the great body of merchants concerned in the Weſt-India trade in the cities of London and Briſtol, are full as reſpectable an authority as the addreſſes from the town of Bewdley; and to ſhew that the preſent bill will very materially affect the ſugar iſlands, ſhould it be paſſed into a law, they appeared the laſt year at your Lordſhips bar, and this year at the bar of the other Houſe; but I believe they will hardly trouble your Lordſhips on the preſent occaſion, for experience has taught them to deſpair of obtaining any ſort of redreſs. It is too often a misfortune in this country for perſons to entertain very different ideas when in and out of employment. I heard the noble Lord with great pleaſure, on the firſt of this ſeſſion, expreſs ſentiments of a very different nature; and, ſtill retaining my

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former opinions, I cannot ſay but I approved much better of the ſpeech then delivered than of the ſentiments now ſo warmly and ſo ably urged by his Lordſhip. When I make this curſory obſervation, I cannot but ſuppoſe that his Lordſhip's change of opinion has riſen purely from conviction. On the whole, my Lords, I pronounce this bill, both in principle and in all its proviſions and clauſes, like thoſe it is to ſucceed, and to be fraught with all poſſible injuſtice and cruelty. I do not think the people of America in rebellion, but reſiſting acts of the moſt unexampled cruelty and oppreſſion. [*Here a cry of order, order.*] I do not retract a ſyllable of what I have ſaid. I think I am juſtified in the expreſſion by the uniform cuſtom and uſage of Parliament, which ſecures to its members the freedom of debate, or why elſe are they at all permitted to deliver their opinions? If the injuſtice of the bill be manifeſt, becauſe it proceeds on an idea which is falſe in fact, that the colonies are in open rebellion, the proviſions of it are no leſs cruel. They ſubject the property of the *innocent* and unoffending to confiſcation, without a trial; they give an undue preference to the navy over the army; or elſe eſtabliſh a precedent of a moſt dangerous and alarming tendency, that of giving the poſſeſſions of one part of the ſubjects of the ſame empire to thoſe employed to reduce them; but, more than all, they authorize an act of the moſt wanton and horrid cruelty, that of obliging ſuch as are taken in the act of trading, for their maintenance and ſupport, to enter and ſerve on board his Majeſty's ſhips of war.

The Lord *Lyttelton*. I do not at all think it decent or parliamentary to allude to any thing ſaid in a former debate; I am ſure ſuch a conduct has been always diſcountenanced in this Houſe. I am happy, however, in ſeeing ſo full a bar, that I may have an opportunity of exculpating myſelf from charges and inſinuations equally ill founded and unjuſt. I cannot ſay that I literally remember the words that fell from me on the occaſion alluded to; but I think my memory will ſufficiently ſerve me to recollect the material ſcope and tendency of what I then urged. In relation to the foreign troops, I thought then, and I have not ſince changed my opinion, that the previous conſent of Parliament was neceſſary to legalize that meaſure; that nothing could juſtify it but the neceſſity; and that an act of indemnity was requiſite, in order to quiet the juſt apprehenſions which ſuch a meaſure ought to occaſion in the breaſt of every perſon who wiſhed well to the conſtitution

conſiderable decreaſe in his rents, as he let his lands conſiderably lower than the real value, on that account. On the other hand, if the reſolutions are meant to ſtop there, and is intended as a mark of particular favour, I think, at all events, it is very improperly exerted towards ſuch a paltry province, Halifax being called the gin-ſhop of America, which, according to a late publication, does not import above thirty thouſand pounds *per annum*, and has already coſt this nation between three and four hundred thouſand pounds, while Pennſylvania, whoſe imports are three hundred thouſand pounds *per annum*, never coſt this country a ſingle ſhilling. But above all, I am warmly againſt any meaſure which may directly or indirectly be the means of defeating that valuable and truly beneficial law, the act of navigation.

The Earl of *Sandwich*. The noble Lord who ſpoke laſt, I believe, nay I am ſure, muſt be miſtaken, reſpecting the lowneſs of ſeamen's wages, for on applying lately to the maſter of a tranſport veſſel, he adviſed a preſs, as he ſaid it would be impoſſible to procure hands to man his ſhip, unleſs at a very advanced price, as he was obliged to promiſe them thirty-five ſhillings a month, and yet they ſtill demanded an advance; and before they got out of the river, would probably refuſe to proceed on their voyage, if their wages were not raiſed to fifty ſhillings per month.

The Lord *Wycombe*, [Earl of Shelburne.] I imagined that a noble Lord, high in office as he is, and at the head of a great department, might have drawn his information from a better and purer ſource than from the maſter of a tranſport veſſel. I have no manner of reaſon to doubt that the noble Earl has ſtated what the maſter told him very faithfully; but I ſhould have hoped that his Lordſhip knew the world, at leaſt the duties of his office, better than to rely ſolely on the information of a perſon whoſe intereſt immediately depended on miſleading him. I am not ſurprized, therefore, though I do not believe the fact, as coming from the maſter, that he ſaid the ſeamen would inſiſt on fifty ſhilling per month before they left the river; but I am much ſurprized that he did not ſtate it much higher, and that the noble Earl ſhould reſt ſatisfied with the report of a man who was to profit from the impoſition.

The Lord Viſcount *Weymouth*. I do not think that the noble Lord who ſtated the reſolutions agreed to in the other Houſe, was juſtified in making them any part of the ſubject

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of this day's debate, or going out of the queſtion immediately before us. We are not bound to adopt the reſolutions he mentions; and if they ſhould be found to militate, or to be ſubverſive of the act of navigation, we ſhall at a proper time have an opportunity of conſidering them in the only parliamentary manner in which they can be mentioned in this Houſe; at preſent, ſuch a diſcuſſion is totally irregular and premature.

The Lord *Wycombe*, [Earl of Shelburne.] I cannot think myſelf in the leaſt diſorderly. The ſubject of this debate relates to America. I think, therefore, I am fully juſtified in ſpeaking to any material point which concerns it. The reſolutions of the Houſe of Commons of laſt year were made a ground of treaty with the colonies: I think very improperly; for this Houſe, in my opinion, ſhould have been previouſly conſulted.

The Lord Viſcount *Weymouth*. There is a very material difference between the reſolutions relative to Nova-Scotia, and thoſe of laſt year. On the latter no meaſure was propoſed or taken; on the former a bill is ordered to be brought in, conſequently the matter will come properly before your Lordſhips.

The Duke of *Richmond*. Beſides the clauſe which I have before mentioned, as full of wanton iniquity, I ſhould be glad to be informed by ſome noble Lord on the other ſide, whether all ſhips, &c. found in port, belonging as well to the enemies as friends of government, are liable to confiſcation, when not found offending, that is, trading at ſea; becauſe, if the clauſe means that, I think it is ſtill an aggravation of the monſtrous and notorious injuſtice of this bill.

The Lord *Wycombe*, [Earl of Shelburne] I had my doubts relative to this clauſe the noble Duke has mentioned; but on cloſer examination, I think one part ſeems to intend the contrary, though it is not clearly expreſſed. I ſhould be glad, before we riſe, however, to hear ſome of the noble ſupporters of this bill riſe and explain it.

The Duke of *Richmond*. I fear I am not perfectly underſtood. What I mean is, ſuppoſing a friend to government, an innocent man, on learning the contents of this bill, ſhould endeavour to comply with it, and neither wiſhing to offend againſt the law, nor riſque his property, ſhould put his veſſel into dock and unrig her, waiting for better and more peaceable times; whether, I ſay, in ſuch a caſe, his veſſel ſo laid up, would be liable to be ſeized and confiſcated?

The Lord Viſcount *Weymouth*. It is impoſſible to decide, or give a direct anſwer to the noble Duke's queſtion; that muſt be left to the determination of the courts of Admiralty.

The Lord *Mansfield*. The noble Duke has put his queſtion very fairly. In my opinion, the intention of the bill is, that the ſhips, &c. laying in dock, ſhould be ſubject to confiſcation. The principle of this bill is, to make a naval war upon America: and as in ſuch caſes it would be impoſſible to make diſtinctions in favour of the innocent, the bill has been framed according to the general ideas of carrying on war againſt a foreign enemy, where it is always taken for granted, that every individual is concerned in and abetting every act of public hoſtility. And I preſume, that the great motive for paſſing this bill is, to veſt the effects, &c. found in the poſſeſſion of the Americans, to the captors; becauſe no exiſting law has provided for the caſe of a ſea war carried on againſt rebels. In King William's time, when Ireland was in rebellion, the defect was firſt diſcovered. A few of the rebel ſhips were taken and condemned, but the legality of ſuch an act was doubted. On the whole, I take it clearly, that the clauſe extends generally without exception.

The Duke of *Richmond* I think it is an additional reaſon againſt ſharing the whole of the confiſcations among the captors, as it will not be now in his Majeſty's power, by this bill, to make any diſtinction in favour of thoſe who muſt, according to the noble and learned Lord's explanation, ſuffer innocently; whereas, if a part of the confiſcation were reſerved for that particular purpoſe, redreſs might, on a petition and a conſequent enquiry, be obtained.

A converſation now aroſe relative to the powers veſted in the Crown, between the Lord Chancellor, Duke of Richmond, Lord Shelburne, and Lord Weymouth; in which the power of pardoning in the firſt inſtance, and the reaſon for inſerting the clauſe in the bill, ſeemed to be miſunderſtood, till Lord Mansfield obſerved, that ſuch a power of delegation was inherent in the Crown without the aid of Parliament, which he inſtanced in the uniform exerciſe of it by the Lord Lieutenants of Ireland, and the commiſſion iſſued in the reign of king William, to treat with the Iriſh rebels. But the reaſon why it was mentioned in the bill was, becauſe the power here given militated againſt two acts of Parliament, which of courſe called for equal power to ſet them aſide.

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The bill having been read a ſecond time, it was moved to commit it. Upon this motion the Houſe divided.

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Diſſentient,

Firſt, Becauſe this bill, by conſidering the colonies in America as a foreign nation, and declaring war on them in that character, has a direct tendency to effect an entire, and we fear permanent ſeparation between the two capital parts of this empire. It is new to behold a nation making a ſeparation of its parts by a law, in hopes of re-uniting them by a treaty. The ſovereign power has hitherto always regarded rebellion as the criminal act of individuals, and not the hoſtility of any great collective body of the community. The framers of this bill admit the principle in its full force, although by all the proviſions they every where contradict it; for whilſt the clauſes of the bill conſign all to puniſhment, the preamble only declares, that many are guilty, the legiſlature chuſing to be conſidered rather as unjuſt to particulars, than confeſs itſelf to be univerſally odious. The Engliſh, on both ſides of the ocean, are now taught by act of Parliament to look on themſelves as ſeparate nations; nations ſuſceptible of general hoſtility, and proper parties for mutual declarations of war, and treaties of peace. We are by this act preparing their minds for that independence, which we charge them with affecting, whilſt we drive them to the neceſſity of it by repeated injuries.

Secondly, Becauſe this bill enables and encourages the navy of England to make an indiſcriminate prey of the property of Engliſh ſubjects trading to or from the colonies (even of the ſhips which lie quiet in the American ports) without regarding whether that property belongs to friends or enemies, to the dutiful or to the diſobedient. This plan of promiſcous rapine (unworthy of the wiſdom and decorum of government) muſt compleat what yet remains to be compleated, of the union in North-America againſt the authority of Parliament. Parliament in this bill ſeems much more inclined to diſtreſs, than able or willing to protect. In North-America the refractory and ſubmiſſive may be blended together. In the Weſt Indies all are innocent; but all are doomed to a much more ſevere, and much more certain puniſhment, than falls upon the moſt guilty in North-America.

America. The whole accommodation, if not the immediate ſubſiſtence of the Weſt-India iſlands, depends on a commercial connection with the continent, from which, by this bill, they are expreſsly reſtrained. One of the chief, and much the moſt plauſible of the complaints made laſt year againſt the North-American colonies, was a reſolution on their part to withhold ſupply from the ſugar plantations. But this year we have made ourſelves to adopt and ſanctify that very conduct which he had painted to the world in ſuch odious colours. It muſt appear as if this bill was purpoſely made againſt the Weſt Indies; and leſt the people of the united colonies might return to ſentiments of fraternal affection, or from motives of ſelf-intereſt, or from impatience of ſo hard a reſtraint, ſhould diſobey or elude the orders of the congreſs, and afford relief to our innocent planters in the Weſt Indies, it ſeems as if an act of the Britiſh Parliament came in aid of that authority, and provided that no ſupply whatſoever ſhall be carried to the Weſt Indies, contrary to the reſolution of the congreſs.

Thirdly, Becauſe this bill greatly exceeds in violence the pattern of injuſtice which it ſeems to follow. In ſome reſpects the prohibition of the congreſs materially differed from the prohibition of this bill. Theirs was not immediate. Time was given to the Weſt Indies for ſupply, both from America and other places. No confiſcations were made. We, on the other hand, have permitted the trade from America, as long as it was neceſſary to ſave ourſelves from famine, and to enable the colonies to pay their debts. This ſupply they have made plentifully, and many of theſe debts they have diſcharged moſt honourably. In return for this, to us uſeful and honourable behaviour, miniſtry, abuſing the bounty of Providence, on the firſt reſtoration of domeſtic plenty, has fabricated a bill for ſeizing American veſſels, now trading under the faith of an act of Parliament, no ſhip of their's being ſuffered to return to its own country, either from hence, or from the Weſt Indies.

Fourthly, Becauſe the bill, not ſatisfied with making predatory war upon the trade of the colonies, thinks it neceſſary to ſtimulate particular avarice and rapacity to an activity in ſuch ſervice, by rendering captures of North-American veſſels and goods, the property of the captors. This regulation is now, for the firſt time, (by any regular authority in this kingdom) to be adopted in a civil contention. We conſider

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this method of holding out the ſpoil of their fellow citizens for the reward of alacrity in civil war, as a ſource of the moſt dangerous corruption that can be conceived, in the firſt inſtance to our navy, and in its conſequence to our army. A number of bold, enterprizing men, trained to the profeſſion of arms, with fortunes to make, and promotion to be obtained, are naturally lovers of war. When they have once taſted of emoluments from domeſtic ſpoil, they will no longer look on the commerce of England as an object of protection, but of plunder. They will ſee the proſperous ſtate of peaceful domeſtic induſtry, not with pleaſure, but with envy. They will be taught to wiſh for thoſe lucrative civil commotions, which they will always have the means of provoking. Our ſoldiers in the land ſervice will ſee no reaſon for their being diſtinguiſhed from the marine; and they will call for the plunder of Engliſh trading towns, when they ſee that the ſeamen have been indulged in the plunder of Engliſh trading ſhips. It never can be ſafe for a ſtate to hold out an intereſt in diſturbing it to thoſe who have the ſword in their hand. The greateſt republic, of which hiſtory gives any knowledge, was ſubverted by this licence of domeſtic plunder. We are perfectly aſſured, that the navy of England wants no ſuch unnatural and impious encouragement towards the performance of any duty which their known public ſpirit, and yet uncorrupted honour, may make it fit for them to perform. And it is no leſs our theirs, than on the public account, a matter of the moſt ſerious affliction to us, that a ſervice always looked upon (and hitherto moſt juſtly) not only without fear or jealouſy, but with the moſt partial affection in every part of this empire, ſhould be unneceſſarily expoſed to the laſting odium which muſt attend thoſe who are enriched from the ſpoils of citizens, amongſt whom they may be obliged to ſpend their lives, and form their connections. Civil wars (when they muſt be made) ſhould be made in ſuch a manner as not to render the return to peace and cordiality impracticable. If the ſpoil ordered by this act had been left in the crown, the crown might uſe it as an encouragement for a return to obedience, and as a means of future peace. It is now only a provocation, through deſpair and reſentment, to perpetual hoſtility. We cannot poſſibly diſcern how any neceſſary operation of war is ſtrengthened by this diſgrace of legiſlature. But if the arms now uſed ſhould ſucceed, ſo as to enforce a temporary and reluctant obedience, we ſee but too well that this bill will leave ſuch a ſting in the minds of

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the coloniſts as to render our government there hated and ſuſpected, and, therefore, for ever precarious.

Fifthly, Becauſe this bill, by anticipating all legal judgment of the offences of thoſe whoſe goods are forfeited, overturns one of the moſt excellent and profoundly conſidered parts of that fundamental law, the declaration of rights, which declares, "that all grants of fines and forfeitures of particular perſons, before conviction, are illegal and void." This proviſion is expreſsly made, leſt rapacious miniſters, ſcenting confiſcation, or rapacious ſoldiers, allured by the luſt of plunder, ſhould be induced to forge or provoke plots and rebellions, in order to enrich themſelves out of the public diſorders.

Sixthly, Becauſe very extenſive commercial property of Britiſh ſubjects (implicated by the nature of commercial intercourſe with that of innocent Engliſhmen reſiding here) is to be taken out of the equitable juriſdiction of the common law of England, and from that ineſtimable birthright of the ſubjects of this kingdom, a trial by jury, and carried to the court of admiralty, to be tried by a ſingle judge, on the rules of an arbitrary foreign law.

Seventhly, Becauſe the whole ſcheme of this predatory war for private lucre, is put under the arbitrary direction of certain commiſſioners, to us unknown even by name, who have power to give ſuch continuance to the ravages authorized by this bill, as their arbitrary will ſhall ſuggeſt; to pardon, or except from pardon, any number or deſcription of perſons, and with ſuch exception as they ſhall ſee fit, without any other rule than their own private opinion, fancy, caprice, favour, or reſentment; and without any other rule to open or keep ſhut any colony, province, county, town, diſtrict, or place. We are of opinion, that the power left to the ſaid commiſſioners is perfectly unjuſtifiable and unconſtitutional. It has, beſide, a tendency to create the moſt ſhameful and miſchievous monopolies. The power given to the admiralty, and to the Weſt-India governors, to licence ſhips, is of the ſame nature. If ſuch monopolies and jobs ſhould not ariſe from ſuch powers, it is no fault of this bill, which, as if it had theſe purpoſes in view, has taken eſpecial care to provide as ſtrong a temptation as human nature, ſet above law and reſtraint, and furniſhed with every facility to corruption, can poſſibly be expoſed to.

Eighthly, Becauſe we know nothing of the buſineſs of theſe commiſſioners, further than the above arbitrary diſ-

cretion with regard to pardons. Rumour gives out, that they are to have a power to treat with the Americans for a redreſs of their grievances. Of this, however, neither the ſpeech from the throne nor the bill have given the leaſt intimation. Athough, if the commiſſioners treat on this ſubject at all, acts and powers of Parliament being the matter of complaint, the commiſſioners ought to derive ſome previous authority from Parliament, in order to give weight and efficacy to their negociations, and to preſerve ſome appearance of dignity in ourſelves. It is hardly proper that Parliament ſhould appear in no other light than as the inſtrument of penal reſtrictions, attainder, penalties, and confiſcations; as the maker of menacing addreſſes, and the rejector of dutiful petitions. It is hardly decent to ſhew ourſelves fierce and inflexible here, but to be ſatisfied with permitting unknown perſons, whom miniſters ſhall chuſe in future to appoint, to diſpoſe in America of powers and acts of Parliament at their pleaſure; leaving us firſt the odium of rejecting reaſonable requeſts, and afterwards the diſgrace of ratifying ſhameful conceſſions.

Ninthly, Becauſe we reject with indignation that clauſe of this bill which, by a refinement in tyranny, and in a ſentence worſe than death, obliges the unhappy men who ſhall be made captives in this predatory war to bear arms againſt their families, kindred, friends, and country; and, after being plundered themſelves, to become accomplices in plundering their brethren. If there exiſts a doubt whether to juſtify the infliction of capital puniſhment on deſertion, it ſhould be neceſſary to prove that a ſeaman was a preſſed man or a volunteer; the object of this clauſe is to deprive the American ſeaman of the plea of his being a preſſed man, as it declares that he is to be conſidered, to all intents and pupoſes, as having entered voluntarily into the ſervice. By this clauſe, not only common ſeamen, but maſters of veſſels, are, without regard to age or circumſtances, or condition, to be ignominiouſly turned before the maſt, and ſubjected to the auſtere diſcipline of the boatſwain. Perſons in that ſubordinate ſtation, not being animated with the liberal and ingenuous ſpirit which diſtinguiſhes officers in the navy, and taught to conſider theſe forced volunteers as rebels, will be but too apt to aggravate the miſeries of captivity by inſult and outrage. Theſe priſoners, among the comrades they are obliged to live and ſerve with, may very probably be often forced to behold the ſpoils of their honeſt induſtry, and the natural ſupport

ſupport of their ſober families, ſquandered in riot and profligate debauchery before their faces. This we look upon as the laſt degree of wretchedneſs and indignity to which human nature can be ſubjected. This cruelty, unknown to the moſt ſavage nations, is to be practiſed by Engliſhmen on Engliſhmen. It has been ſaid in Parliament, that the pay the priſoners are to receive is to be conſidered as a full compenſation for the principles they are obliged to violate. We do not envy any one that ſentiment. An attempt is alſo made to juſtify it by the ſuppoſed right of preſſing. We cannot conceive that the burthens of ſubjection ought ever to be impoſed, where the protection belonging to it is denied; or, that a man can ever be deſpoiled of his goods as a foreign enemy, and at the ſame time obliged to ſerve the ſtate as a citizen. This compulſion we have never heard to be practiſed on any priſoners of war, or in rebellion—nor do we know any example of it, except among pirates—the outlaws and enemies of human ſociety.

Tenthly, Becauſe a bill ſo unprecedented in its nature, and ſo important in its conſequences, is brought in at a time of year when, by experience, it is known that moſt of the independent members of both Houſes are called away by their domeſtic affairs, and when few but thoſe in the immediate pay of the court, and attending on their employments, are in town. This we conceive to be done in order to impreſs the public with a deluſive idea, that thoſe meaſures are agreeable to greater numbers in both Houſes than in reality they are. The only part of this bill which we approve is the repeal of the unjuſt and improvident acts which have produced all the evil effects we had foreſeen, and none of the good which was pretended as the ground for making them—acts as unfit for as incapable of execution. But, to our inexpreſſible grief, and to the diſgrace of the public councils of this kingdom, miniſters, untaught by misfortunes, and unchecked by diſappointments, at the very inſtant they are obliged to demoliſh the old fabric of their oppreſſion, as uſeleſs and miſchievous, are building up another on nearly the ſame model, and with the ſame materials; adding only ſomething more of that injuſtice and violence which have always proved miſchievous, in proportion as they have been augmented.

RICHMOND,
PONSONBY,
FITZWILLIAM,
ABERGAVENNY,
ROCKINGHAM,
CHEDWORTH,
ABINGDON,
MANCHESTER.

December

December 18.

The order of the day to go into a committee on the American prohibitory bill.

The Duke of *Manchester* said, that whatever view administration could have in deceiving the public might be matter of speculation, and was what he would not pretend precisely to determine; but, by the account that appeared in Saturday's Gazette, published by authority, and immediately under the direction of administration, it appeared they were determined to bring the London Gazette on a level with the Brussels Gazette, published during the late war. By the account alluded to, he remarked, that our affairs in Canada were represented to be in a very flourishing condition; whereas the contrary was well known to be true, for there were authentic accounts of a later date from that country, which say, that St. John's was in the hands of the provincials, and that probably the next accounts will bring advices of the total destruction of General Carleton's army, and that we are not in possession of a foot of land in Canada. His Grace, as well on account of this news, as the general importance of the bill, moved that the commitment might be put off till after the Christmas recess.

He was seconded by the Marquis of *Rockingham*, who, besides the general reasons urged by the Duke of Manchester, said, that the merchants were alarmed; and that in such a case he thought it would be very proper to defer the further consideration of the bill till after Christmas, as in such a state of uncertainty, but more particularly on account of the alarm the bill had created among the trading and commercial part of the nation, the consequences were, in many respects, much to be dreaded.

The Earl of *Suffolk* said, that the King's ministers were fully justified in causing the account relative to Canada to be inserted in the Gazette; that it was the last authentic account received from that province. That the ministry had received the account alluded to by the noble Duke, but they had no right to pay any attention to it, as it did not come through a channel on which they could depend; that it might be, for ought he could say to the contrary, very true; but whether it was, or not, it could not affect the present bill, because, if Canada was in the hands of the provincials, it should become Great Britain to act with greater firmness and vigour.

The Lord Viscount *Townshend* said, that the present reason for deferring the commitment of the bill had no possible weight

weight with him. If an account of our prevailing in this ſkirmiſh, or being defeated in that, was to ſway and influence the Britiſh councils, it was a ſtate he never expected to ſee them reduced to; that if the principle which Parliament meant or avowed to purſue was a good one and practicable, nothing ought to divert them from it; for he hoped they had the power to enforce what they certainly had a right to claim.

The Lord *Wycombe* [Earl of Shelburne] obſerved, that no man had a higher opinion of the military abilities of General Carleton than he had; but he could not ſay but that gentleman, if the accounts from Canada were to be depended on, had acted in a very unjuſtifiable, reprehenſible manner in his civil capacity.

The Lord Viſcount *Townſhend* to explain, and paſſed the higheſt encomiums on General Carleton. He ſaid there was not a braver nor more capable officer in the ſervice. That what he had ſaid relative to his not having a ſufficient force to oppoſe the rebels, was not ſo much in point numbers as diſcipline. He had, it is true, a good number of troops under his command, but they were moſtly compoſed of militia, not uſed to ſervice; the whole regular force together not exceeding two regiments, amounting to 700 men.

Lord *Wycombe* [Earl of Shelburne] repeated his entire approbation of General Carleton, as an officer, but he ſaid he had done many things for which, he believed, he or his principal would be made anſwerable. That he ſhould not now trouble their Lordſhips on that head, but he hoped that the day was not very far diſtant when the matter would be fully cleared up. As to the want of force, or want of diſcipline, the general could not help that; it behoved thoſe only who neglected that ſervice to anſwer for his want of ſucceſs.

The queſtion was put on the Duke of Mancheſter's motion for poſtponing the bill till after Chriſtmas, but it paſſed in the negative without a diviſion.

The Lord *Chancellor* moved the order of the day, but, before the chairman [Lord Scarſdale] had taken the chair, the Duke of Mancheſter acquainted the Houſe, that he had a petition from the merchants of Briſtol againſt the bill. His Grace obſerved, that he did not know whether it was conſonant to the orders of the Houſe. He, in the mean time, read the heads of the petition in his place, which deſcribes the various ruinous conſequences of the bill, as reſpecting the merchants of that town concerned in the American trade.

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The Earl of *Sandwich* to the matter of order; ſaid no motion could be received while the order of the day was before the Houſe; that, beſides, he believed there was no occaſion for particularly attending to the contents of the petition, as he meant to offer a clauſe which he believed would, in a great meaſure, remedy the grievance ſtated in the petition.

The Houſe then went into a committee of the whole Houſe on the bill; when ſeveral amendments were made, and clauſes offered.

The Earl of *Sandwich* offered a clauſe to protect all veſſels and their cargoes, if two-thirds thereof ſhould appear to belong to Britiſh ſubjects.

The Earl of *Dartmouth* offered an amendment to the preamble and the concluding clauſe, to aſcertain and ſhew that the power of pardoning veſted in his Majeſty by the bill, was inherent in him, and only given here to anſwer a particular purpoſe.

The Earl of *Sandwich* offered another clauſe in favour of the Weſt India iſlands.

The bill being gone through, Lord Scarſdale left the chair, and it was ordered to be reported to-morrow.

December 19.

The American prohibitory bill reported. No debate.

December 20.

Order of the day, the third reading of the American prohibitory act.

The Marquis of *Rockingham*. I have a petition in my hand to preſent to your Lordſhips from the merchants of Briſtol, complaining of the hardſhips they are likely to ſuffer, ſhould this bill, in its preſent form, paſs into a law. I do not mean to oppoſe the bill in this ſtage, but purely to explain a matter relative to the object of this petition. When this petition was offered to be preſented in the committee by a noble Duke now abſent, [Duke of Mancheſter] the noble Earl over the way [Lord Sandwich] roſe and obſerved, that he had a clauſe which would entirely obviate the apprehenſions expreſſed in the petition. The noble Duke, on this aſſurance, acquieſced; but it has ſince been diſcovered by the friends of the petition, that the amendment propoſed by the noble Earl, and agreed to by your Lordſhips, by no means comes up to the idea or wiſhes of the petitioners. It is on that account, therefore, I would recommend to your Lordſhips, before the remedy be out of your power, to beſtow ſome attention to the clauſe, and as you have declared a de-

ſire to relieve the merchants, in every reſpect as far as is conſiſtent with the principle of the bill, by giving the clauſe a review, you will then have it in your power to determine whether it might not, with great propriety, ſtill be permitted to undergo further alteration. The amendment I allude to is that which fixes the time for ſhips not immediately coming within the deſcription of this bill, from the firſt of January to the firſt of Auguſt. As the reſtraining bills of laſt year permitted the importation of lumber, and other commodities, from America into the Weſt India Iſlands; and as by this bill proviſions are made, which entirely alter the nature of that indulgence, and annex different conditions, what will be the conſequence, but that goods ſhipped under the faith of the two reſtraining acts, will be liable to confiſcation and ſeizure, as not knowing that the law has been altered by the preſent bill? To remedy this evil, this unprecedented hardſhip and injuſtice, what I would ſuggeſt to your Lordſhips would be, to change the commencement of the operation of this bill from the 1ſt of January to the 1ſt of March, by which means the people and merchants concerned in the Weſt India trade will have timely notice of the alteration made by this bill, and, by that means, will have it in their power to prevent the confiſcations and ſeizures which muſt otherwiſe be the inevitable conſequence of their ignorance and want of information.—On the whole, my Lords, if any relief be really intended to be given to the trading and mercantile part of this country, no poſſible objection can be raiſed to the indulgence now deſired; if not, and that the property of the merchants, planters, and others concerned in the Weſt India trade, is to be confiſcated, contrary to the faith of two ſolemn acts of Parliament, the effects of ſuch a procedure muſt be indeed terrible; and the innocent, as well as guilty, will then have good cauſe to be alarmed; finding themſelves ſuffering under the preſſure of ſuch a weight of power, breaking into acts of the moſt wanton violence, and moſt unjuſtifiable oppreſſion.

The Earl of *Suffolk*. It is ſomewhat extraordinary that this bill ſhould, in this ſtage, meet with an oppoſition, after having been ſo fully before debated, and every poſſible objection to it fairly and fully obviated. For my part, I think diſpatch is now become neceſſary; and, for that reaſon, I ſhall not be for admitting any farther delay.—As to the petition the noble Marquis now offers to preſent, I take it to be entirely irregular. His Lordſhip ſhould have offered it before

before this bill was read a third time. The quſtion now before your Lordſhips cannot relate to any particular clauſe or amendment in the bill; thoſe are already decided on. The queſtion now is, the bill being already read a third time, whether the bill ſhall paſs.—Here the Lord Chancellor proceeded to put the quſtion, and the Marquis gave the petition to the clerk to hand to the chair.

The Lord Viſcount *Weymouth*. The queſtion cannot now be poſtponed, though we were ever ſo deſirous. It is therefore, in my opinion, totally irregular, in this ſtage of the bill, to offer any matter whatever, but what may go to its total rejection. The matter now urged ſhould have been offered on the report. It is now too late, and conſequently I ſhall be for having the queſtion now before the Houſe ſtrictly adhered to.

The Earl of *Sandwich*. I differ extremely from the noble Marquis in the conſtruction of the clauſe alluded to. No bill ever paſſed both Houſes in a more deliberate manner than the preſent. It was very maturely conſidered and debated in the other Houſe. That Houſe ſhewed every poſſible inclination to render it as palatable as was conſiſtent with the principle of it; and admitted ſeveral alterations, in order to render it innoxious to all thoſe againſt whom it was not immediately directed. I took the liberty to propoſe ſome amendments myſelf, to render it ſtill leſs liable to any objections which might be made by ſuch as imagined their property to be affected; yet, after all this candour and conceſſion, to come in this ſtage to offer freſh clauſes and amendments, is, I confeſs, my Lords, what I did not at all look for or expect. I am clearly of opinion, that if the amendments ſuggeſted by the noble Marquis were to take place, it would, in a great meaſure, totally defeat the intentions of this bill, becauſe, the notice given by the amendment, would enable all the parties to ſhip ſuch quantities of goods under that indulgence, that every ſubſtantial operation of the bill would be prevented. If, however, any captures or ſeizures ſhould happen, on account of the ignorance and want of information of any of the perſons actually concerned, it will be a good ground for obtaining ſuch redreſs as the nature and circumſtances of the caſe may deſerve; but for making any amendment, which might open a door for colluſion, or for evading the principle or different proviſions of this bill, I muſt fairly own, I am totally againſt it. Beſides, if the reaſons for the propoſed amendment of the noble Marquis were much ſtronger, or would be productive

of the conſequences I have pointed out; yet, by the eſtabliſhed rules and orders of this Houſe, it is now too late to make any motion for altering or amending any of the clauſes of the bill.

The Lord *Wycombe*, [Earl of Shelburne]. The indulgence your Lordſhips ſhewed me on a former occaſion, would have prevented me from again troubling you on the ſubject. I ſhould have thought myſelf precluded from oppoſing it in this ſtage, after having ſo fully expreſſed my ſentiments on the ſecond reading, if I had not looked upon myſelf called to inform your Lordſhips of a particular circumſtance, which has come to my own knowledge, as well as to ſtate an objection or two to the bill, which did not occur to me when firſt I delivered myſ entiments on this ſubject.—The fact of which I am to inform your Lordſhips is, that a merchant, whom I never ſaw before, applied to me, and told me, that a great number of veſſels were now loading, under the expreſs proviſions of the reſtraining act of laſt year; that the perſons, owners, and proprietors of thoſe veſſels and cargoes, would be liable to have them ſeized and confiſcated: This he repreſented as a grievous hardſhip, as the merchants in America, Great Britain, and the Weſt Indies, were brought into this very predicament, by the reliance and confidence they had in a Britiſh act of Parliament. I told the gentleman, he would have acted much more properly, to have applied to your Lordſhips for redreſs: but I nevertheleſs thought it my duty to mention it, as a matter well deſerving your Lordſhips conſideration. On a former occaſion, I ſpoke very fully to this bill; but I cannot avoid mentioning one part of it, the concluding clauſe, which authorizes the crown to delegate to others the power of pardoning; and I underſtand, ſince I laſt delivered my thoughts on this ſubject, an amendment has been made to the bill, to prevent any doubt which might hereafter ariſe by the penning of the clauſe, of ſuch a right being inherent in the crown. I have, my Lords, conſulted ſeveral very able and reſpectable lawyers on the ſubject, and not one of them has acceded to the doctrine in its full extent. I have looked into ſeveral great authorities, as they lie ſcattered in books, concerning this doctrine, and not one of them come up to the language of this bill. One of them in particular lays great ſtreſs on the ſtatute paſſed in the reign of Henry the Eighth, which takes away this delegated power from the Lords Marchers, and veſts it *for ever ſolely* in the crown. In *ſhort*, after the beſt enquiries I have been able to make, I

am not ſatisfied that this claim of delegating the power of pardoning in the lump is at all inherent in the crown. Some are of opinion, that this power may be given by his Majeſty to individuals, others in the lump, others in America only; but *not one*, that it is inherent in the crown generally and unconditionally. Informed as I am, I ſpeak with all poſſible diffidence on a ſubject of ſuch a nature, and with all poſſible deference to the judgment of the noble and learned Lords preſent, who declared when this ſubject was laſt under diſcuſſion, clearly in ſupport of this power; but yet, after all, I truſt the noble Lords will excuſe me for expreſſing a wiſh, that a point of ſuch magnitude, a legal queſtion involving in it ſuch important conſequences, were not hurried till an opportunity were given to conſider this matter more fully, at which time a noble lord, whoſe ſtate of health will not permit him at preſent to attend, [Lord Camden] may probably be able to deliver his opinion, and this Houſe, and the nation at large, be ſatisfied than an improper power is not veſted in the crown by this bill. The Greeks and Romans had ſome wars of the kind that is now carrying on againſt America by this country. They never gave them the name of rebellions, nor acted againſt them as alien enemies. The latter, in one of a ſimilar nature, called it the ſocial war. I call this a conſtitutional war. I ſay this war is fraught with innumerable miſchiefs. Inſtead of exacting obedience, it declares nothing but a wiſh for ſeparation; it meditates open deſtruction, not coercion. It goes not to the puniſhment of rebels, and the protection of the innocent. It is made contrary to every rule obſerved in commotions of this kind. Inſtead of being directed againſt individuals, who are the ſuppoſed authors of this rebellion, it is carried on as if againſt foreign enemies; war is made on the community at large. In fine, the principle of the bill is to puniſh the innocent, as well as the guilty. But if the principle of the bill be bad, the proviſions of it are ſtill worſe. To carry it into execution, what are you to do? The framers of this bill, in order to ſtifle and hide the fixed averſion the people in general entertain for the ſervice, have provided that the plunder ſhall be ſhared among the captors, by way of encouragement. What is this but ſacrificing the merchant to the ſeaman? Again, the glaring cruelty and injuſtice of ſuch a procedure, have induced the friends of the bill to admit ſome clauſes, in order to ſoften the unexampled rigour of the hardſhips complained of. Thus the ſeaman in turn is ſacrificed to the merchant. In ſuch a ſtate

of uncertainty, what are we to conclude from this heterogeneous mixture of indulgence and ſeverity, by which the merchant is neither ſure of his property, nor the ſeaman of the produce of his capture, when all will be law, litigation, and confuſion? It directly calls to my memory the ſtory relative to Sir Charles Wager, alluded to in a former debate by a noble and learned Lord near the table, [Lord Mansfield] who, after taking a very valuable prize, and having her condemned, when the balance came to be ſtruck, he found himſelf a conſiderable loſer. On the whole, I think the principle of the bill wrong, the proviſions abſurd, oppreſſive, cruel, and contradictory, and the meaſure taken together, to the laſt degree haſty, raſh, unjuſt, and ruinous

The Lord *Mansfield.* I did not come prepared the laſt day this bill was under conſideration to ſpeak to it, though I delivered my ſentiments upon ſome particular matters which happened then to come into diſcuſſion; nor ſhould I now trouble your Lordſhips, did not I think myſelf called upon to aſſign my reaſons for aſſenting to it. The noble Lord ſays, this bill is haſty, raſh, ruinous, and unjuſt. I ſhall beg the patience of the Houſe, while I endeavour to exculpate myſelf from that part of the cenſure which may be preſumed to fall to my ſhare, as giving it my ſupport ariſes from the fulleſt conviction of its utter neceſſity in the preſent ſtate of things. Before, however, I ſpeak to the principle of the bill, I ſhall explain one matter, which has been frequently mentioned. It has been objected, that one of the clauſes of this bill has a retroſpective view, as it legalizes all ſeizures made before the paſſing of this bill. This, my lord, is not unuſual; it has, indeed, been the conſtant, uniform practice in ſuch caſes It is founded in juſtice; becauſe if ſuch ſeizures were made wantonly, or without cauſe, and not upon the only ground on which they can be fairly defended, that of manifeſtly advancing the public ſervice, the clauſe in this bill will not protect or indemnify any act of that kind. Beſides, what is the true legal conſtruction of this clauſe?—Not, ſurely, to ſeize the property, and confiſcate it. No, only to defend the actors againſt perſonal actions, the perſons complaining being ſtill left at full liberty to purſue their remedy at law, in order to recover their property, or the value of it. It would, indeed, were it otherwiſe, be impoſſible for officers in high command to act, if for meaſures taken for the good of the ſtate, they ſhould be liable afterwards to be ruined

by

by the almoſt infinity of ſuits that might be inſtituted againſt them, when the commotions were over, and every thing returned into its former tranquil ſtate. The noble Lord ſeems to doubt of the right of delegating the power of pardoning to be inherent in the crown; for my part, I am perfectly clear it has from the firſt eſtabliſhment of the monarchy. General Gage exerciſed it on a late occaſion; where, by proclamation, he promiſed pardons to every man in America, but one or two individuals. It has been always the practice. Every general of an army, acting againſt rebels, is veſted with this power. Indeed, I believe, there never was a rebellion in this country, or its dominions, in which this power was not actually exerciſed. The rebels taken in 1715, at Preſton, claimed it as an agreement, as the terms of capitulation. It was not granted; but the power was never diſputed. A night or two ago I was reading the Regiſter, a book of the firſt law authority extant. It is full of original writs. So early as the reign of Edward the firſt, I find this doctrine of pardoning in the lump fully confirmed. I found there a *dedimus poteſtatem*, directed by that King to certain perſons therein mentioned, to pardon all the people of Galloway. Was not this pardoning in the lump? Was not this pardoning a whole community? As to the original matter that gave riſe to this bill, I always was of opinion, that the people of America were as much bound to obey the acts of the Britiſh Parliament as the inhabitants of London and Middleſex. I always thought, that, ever ſince the peace of Paris, the Northern Colonies were meditating a ſtate of independency on this country. They have told you as much in one of the publications of the Continental Congreſs, wherein they thank Providence, for inſpiring their enemies with the reſolution of not attempting to carry their ſchemes of dominion into execution, till they had arrived at a growth and ſtrength ſufficient to reſiſt them. I have not a doubt on my mind but this has been their intention from the period I allude to. Whatever might be their wiſhes before that time, their ſituation rendered it impracticable, becauſe it was this country that could alone protect them againſt the power of France, to which their whole frontier lay expoſed. But allowing that all their profeſſions were genuine, that their inclinations were thoſe of duty and reſpect towards this country, that they entered into the preſent rebellion through the intrigues and arts of a few factious and ambitious men, or thoſe who ultimately directed them; that the ſtamp act

was wrong, that the declaratory law might aſſert the ſupremacy over that country, but it ought never to be exerciſed, nor amount to more than ſuch a power as his preſent Majeſty claims over the kingdom of France, a mere nominal dominion, that no troops ſhould be ſent into that country, even to defend them, without their own permiſſion; that the admiralty courts ſhould never be made to extend there, though, by the trial by jury, the parties themſelves would be judges; that offenders againſt the laws and authority of this country ſhould be tried for offences by perſons who themſelves were ready to declare they did not think the charges criminal; that no reſtraints ſhould be laid upon their commerce, though that great bulwark of the riches and commerce of this country, the act of navigation, depended on ſuch reſtraints; that every meaſure hitherto taken to compel ſubmiſſion to the parliamentary authority of this country was cruel and unjuſt; that every miniſtry in this country was tyrannic and oppreſſive, and that the laſt is worſt of all. Yet, admitting all this to be true, my Lords, what are we to do? Are we to reſt inactive, with our arms acroſs, till they ſhall think proper to begin the attack, and gain ſtrength to do it with effect? We are now in ſuch a ſituation, that we muſt either fight or be purſued. What a Swediſh General ſaid to his men, in the reign of Guſtavus Adolphus, juſt at the eve of a battle, is extremely applicable to us at preſent: Pointing to the enemy, who were marching down to engage them, ſays he, "My lads, you ſee thoſe men yonder, if you do not kill them, they will kill you." If we do not, my Lords, get the better of America, America will get the better of us. We do not fear, at preſent, that they will attack us at home; but conſider, on the other hand, what will be the fate of the ſugar iſlands; what will be the fate of our trade to that country? That, my Lords, is a moſt valuable, important conſideration; it is the beſt feather in our wing. The people of America are preparing to raiſe a navy; they have begun in part; trade will beget opulence, and, by that means, they will be enabled to hire ſhips from foreign powers. It is ſaid the preſent war is only defenſive on the part of America. Is that the caſe? Is the attack, on Canada, or the attempt on Halifax, a defenſive war? Is the prohibiting all trade and commerce with every other part of the dominions of the Britiſh empire, with Ireland, for whom they expreſs ſuch friendly ſentiments, is ſtarving the ſugar iſlands, acting on the defenſive? No; though thoſe people never

never offended nor oppreſſed us, we will diſtreſs them (ſay they) becauſe that will be diſtreſſing of Great Britain. Are we, in the midſt of all the outrages of hoſtility, of ſeizing our ſhips, entering our provinces at the head of numerous armies, ſeizing our forts, to ſtand idle, becauſe we are told this is an unjuſt war, and wait till they have brought their arms to our very doors? The laſt Dutch war was generally underſtood to be unjuſt, yet that did not prevent us from repelling the invaders, when they came up to burn our navy at Chatham. The cauſes of the late war were much condemned, but that did not prevent us from purſuing it with vigour. Indeed, the nature of all war is ſuch, it ought to be carried on with vigour, till the objects which cauſed it are either obtained, or abandoned as unattainable, or not worth purſuing. Neither, I truſt, is the caſe in the preſent inſtance: I do not therefore conſider who was originally in the wrong; we are now only to conſider where we are. The juſtice of the cauſe muſt give way to our preſent ſituation; and the conſequences which muſt enſue, ſhould we recede, would, nay muſt, be infinitely worſe than any we have to dread by purſuing the preſent plan, or agreeing to a final ſeparation. On thoſe, as well as many other conſiderations of great weight, I beg leave to differ from the noble Lord who ſpoke laſt; for I am ſatisfied this bill is neither haſty, raſh, ruinous, or unjuſt.

There was no diviſion.

Ordered, That the trial of the Ducheſs Dowager of Kingſton be on the 28th of February next in Weſtminſter-hall.

December 21.

Private buſineſs.

December 22.

Bills received the royal aſſent. Adjourned to January 23, 1776.

January 23, 1776.

Private buſineſs.

January 24.

The ſame.

January 25.

As the ſcaffolding in Weſtminſter-hall, for the trial of the Ducheſs Dowager of Kingſton, could not be prepared, on account of the term, time enough for the trial on the 28th of February, the order for the trial was altered to the 15th of April.

January 26,

Private buſineſs. Adjourned to the 29th.

January

their opinions on the two following points: Whether Elizabeth, calling herſelf Ducheſs of Kingſton, indicted under the name of Elizabeth, the wife of A. J. Hervey, can, under ſuch indictment, be tried as a Peereſs of this realm? or, Whether ſhe may not move in arreſt of judgment the incompetency of the court to give judgment on ſaid indictment? Both agreed.

The Duke of *Richmond* gave notice, that he would, on Tueſday next, [March 5.] move to take into conſideration the treaties lately made with the Landgrave of Heſſe Caſſel, &c.

February 29.

The Earl of *Hillſborough* moved, that the petition of the lady, calling herſelf Ducheſs Dowager of Kingſton, be now read. This being agreed to, the petition generally ſtated, that a bill of indictment had been found againſt her by the grand jury of the county of Middleſex, charging her with bigamy, as being the lawful wife of Auguſtus John Hervey, and married with Evelyn, late Duke of Kingſton, deceaſed, during the life time of her ſaid huſband; that the indictment had been brought into the Court of King's Bench; and praying, as being the widow of the ſaid Evelyn Duke of Kingſton, and a Peereſs of this realm, that ſhe might be tried by her Peers. He next deſired, that the writ of *certiorari*, ordering the ſaid indictment to be returned into the Court of King's Bench, might be read; and laſtly, the order of that Houſe, directing the ſaid indictment and *certiorari* to be brought before the King in Parliament. A motion was made that the indictment might be read, which occaſioned a good deal of mirth, as it ſtated, "that the jurors appointed by their Sovereign Lord the King to enquire into the matter charged againſt the ſaid Elizabeth Hervey, wife of Auguſtus John Hervey, had *found*, that the ſaid Elizabeth did, on ſuch a day and place, in the county of Southampton, in the 25th of the late King, marry the ſaid A. J. Hervey; and on ſuch a day, in the 8th of his preſent Majeſty, in the pariſh of St. George's, Hanover-ſquare, with *force and arms*, &c. marry the ſaid Evelyn Duke of Kingſton, her ſaid former huſband being then alive."

Theſe formalities being gone through, his Lordſhip ſtated the general grounds of the two queſtions he meant, with the conſent of the Houſe, to put to the Judges. The main point on which he reſted his motion was, that neither the indict-

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eldeſt ſons; but, after it was ſo amended, it was rejected, as not being founded in predecent: the laſt was, to inſert Peereſſes married to Commoners; but that too was overruled, on the footing that a Peereſs, obtaining rank by marriage, loſes it when ſhe marries a Commoner. The reſolution ſtood at the concluſion thus: Peereſſes, Peers' eldeſt ſons, and their wives, and the daughters of Peers. A converſation now enſued, whether the court ſhould riſe at five, as reported in the reſolution, or whether, according to a propoſition of Lord Dudley's, it ſhould be extended to ſeven? The time fixed in the reſolution, [April 15.] was agreed to. There were a great number of mere formalities reported, that are founded in precedents, ſuch as that the Lords ſhall attend in the Prince's chamber to robe, go from that to their own houſe, and proceed in proceſſion to Weſtminſter-hall, all in their ſeveral degrees; the junior Barons going firſt, and the Lord High Steward laſt; the proclamations on opening the court; the returning to their own houſe to debate all queſtions, and coming back to the Hall to declare their opinion by the mouth of the Lord High Steward; the attendance of the Judges on the woolſacks; the attendance of the Clerk of the Crown, and the law officers of the crown; the Peers ſtanding uncovered, while the commiſſion appointing the Lord Chancellor Lord High Steward is reading; the Lords giving their ſuffrages, by laying their right hands on their breaſts, and ſaying *guilty* or *not guilty, upon my honour;* the manner of the priſoner and counſel addreſſing their Lordſhips, and not the Lord High Steward; and a great many other ceremonials of leſs conſequence.

February 23.

Private buſineſs. Adjourned to the 26th.

February 26.

No debate. Adjourned to 28th.

February 28.

The Earl of *Hillſborough* acquainted the Houſe, that he had a motion to make. He obſerved, it was but a thin Houſe, yet as the queſtion would turn on a mere point of law, he preſumed the time would not be deemed too ſhort. His Lordſhip obſerved, that in the indictment found againſt the Ducheſs of Kingſton ſhe was deſcribed as Elizabeth the *wife* of A. J. Hervey, calling herſelf Ducheſs of Kingſton. He therefore moved, that the Houſe be ſummoned for tomorrow, and that the Judges be ordered to attend, to give their

their opinions on the two following points: Whether Elizabeth, calling herſelf Ducheſs of Kingſton, indicted under the name of Elizabeth, the wife of A. J. Hervey, can, under ſuch indictment, be tried as a Peereſs of this realm? or, Whether ſhe may not move in arreſt of judgment the incompetency of the court to give judgment on ſaid indictment? Both agreed.

The Duke of *Richmond* gave notice, that he would, on Tueſday next, [March 5.] move to take into conſideration the treaties lately made with the Landgrave of Heſſe Caſſel, &c.

February 29.

The Earl of *Hillſborough* moved, that the petition of the lady, calling herſelf Ducheſs Dowager of Kingſton, be now read. This being agreed to, the petition generally ſtated, that a bill of indictment had been found againſt her by the grand jury of the county of Middleſex, charging her with bigamy, as being the lawful wife of Auguſtus John Hervey, and married with Evelyn, late Duke of Kingſton, deceaſed, during the life time of her ſaid huſband; that the indictment had been brought into the Court of King's Bench; and praying, as being the widow of the ſaid Evelyn Duke of Kingſton, and a Peereſs of this realm, that ſhe might be tried by her Peers. He next deſired, that the writ of *certiorari*, ordering the ſaid indictment to be returned into the Court of King's Bench, might be read; and laſtly, the order of that Houſe, directing the ſaid indictment and *certiorari* to be brought before the King in Parliament. A motion was made that the indictment might be read, which occaſioned a good deal of mirth, as it ſtated, "that the jurors appointed by their Sovereign Lord the King to enquire into the matter charged againſt the ſaid Elizabeth Hervey, wife of Auguſtus John Hervey, had *found*, that the ſaid Elizabeth did, on ſuch a day and place, in the county of Southampton, in the 25th of the late King, marry the ſaid A. J. Hervey; and on ſuch a day, in the 8th of his preſent Majeſty, in the pariſh of St. George's, Hanover-ſquare, with *force and arms*, &c. marry the ſaid Evelyn Duke of Kingſton, her ſaid former huſband being then alive."

Theſe formalities being gone through, his Lordſhip ſtated the general grounds of the two queſtions he meant, with the conſent of the Houſe, to put to the Judges. The main point on which he reſted his motion was, that neither the indict-

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ment nor writ of removal from the County Court nor King's Bench were properly before the Houſe. He inſiſted that ſhe ſhould have regularly pleaded her privilege to the juriſdiction of the Court of King's Bench; that her plea ſhould have been recorded, and the record, with the endorſement of ſuch plea, returned by the Court before the King in Parliament. By that means the Houſe would have had it in their power to enquire into the validity of the plea, that is, to determine the fact, whether ſhe was or was not a Peereſs; and if they ſhould decide that ſhe was, then to proceed to bring her to her trial. His Lordſhip relied much on the finding of the Grand Jury, who ſtated ſimply, that they found ſhe was married to A. J. Hervey, and did unlawfully marry again with the late Duke of Kingſton; conſequently, if the bill was well founded, ſhe could not be tried as a Peereſs on that indictment, becauſe ſhe was deſcribed therein as the wife of a Commoner, the very juſtice of the cauſe turning on the circumſtance of her not being legally married to the late Duke of Kingſton. In proof that the formalities ſtated by him were eſſential to the point under their Lordſhips' conſideration, he cited the precedent in the beginning of the reign of Queen Anne, in the caſe of Lord Banbury, who being indicted for murder, pleaded againſt the juriſdiction of the Court; and his plea being recorded, the *certiorari*, with the plea indorſed on it, was returned before the King in Parliament, when the Lords not allowing the plea to be good, but refuſing to decide on it in a legal manner, Holt, Chief Juſtice, refuſed to bring Lord Banbury to his trial as a Commoner, and his Lordſhip was diſcharged without any ſort of trial whatever.

His Lordſhip beſides explained the intended effect of his motion. He ſaid it was by no means intended to defeat the trial, or elude juſtice, but merely to preſerve the laws and uſages of Parliament, and the conſtitutional mode of trial. He next ſtated the queſtions he intended to put:—The firſt was, whether Elizabeth, calling herſelf Ducheſs Dowager of Kingſton, and indicted under the name of Elizabeth Hervey, wife of A. J. Hervey, could be lawfully tried as a Peereſs? The ſecond, ſuppoſing ſhe ſhould be tried, whether ſhe might not move an arreſt of judgment on account of the incompetency of the juriſdiction, alledging, that the indictment deſcribed her by the name of Elizabeth, wife of A. J. Hervey? The third, whether as the wife of A. J. Hervey, ſhe could be tried as a Peereſs of the realm?

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The queſtion was put on the firſt of thoſe, and the Earl of Denbigh moved the following amendment: to inſert the words "ſince become a Peer of this Houſe," which produced a ſhort debate. For the amendment: contents 32, non-contents 18.

The amended queſtion was put, Whether Elizabeth, calling herſelf Ducheſs of Kingſton, indicted under the name of Elizabeth, the wife of A. J. Hervey, ſince become a Peer of this Houſe, can be lawfully tried as a Peereſs? The queſtion was then put, Whether the amended queſtion ſhould be put to the Judges, in order to have their opinion thereon? For putting the queſtion to the Judges, contents 43, non-contents 7.

The amended queſtion was put to the Judges, and Lord Chief Baron Smythe roſe, and acquainted their Lordſhips, that it was the unanimous opinion of all the Judges in town, eight others and himſelf, that the Lady calling herſelf Ducheſs Dowager of Kingſton, can, on the indictment found againſt her by the grand jury of the county of Middleſex, be lawfully tried as a Peereſs of this realm.

March 1.

Private buſineſs. Adjourned to March 4.

March 4.

The ſame.

March 5.

The Duke of *Richmond* moved, That an humble addreſs be preſented to his Majeſty, praying, that he would be graciouſly pleaſed to countermand the march of the troops of Heſſe, Hanau, and Brunſwick; and likewiſe give directions for an immediate ſuſpenſion of hoſtilities in America, in order to lay a foundation for a happy and permanent reconciliation between the contending parts of this diſtracted empire. [For the addreſs at length, ſee the proteſt at the end of this day's debate.]

His Grace apologized for the trouble he was going to give; expreſſed a conſciouſneſs of his own inability, and a wiſh that others more equal to the taſk had ſtood forward at this tremendous criſis; a criſis which he feared would decide the fate of this great empire for ever. He lamented the abſence of the Marquis of Rockingham, and the Earl of Chatham. The latter, when this nation was on the brink of deſtruction, reſcued it from impending ruin; and not reſting there, gave a luſtre to our arms, and an efficacy and ſteadineſs to our councils, never before known in the annals

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of this country. The other of them, a noble Marquis [Marquis of Rockingham] who in a ſeaſon of public diſtraction preſided at the head of the national councils, with honour to himſelf, and ſatisfaction to the nation; and though his adminiſtration was but of ſhort continuance, had the good fortune to quit his ſtation with a conſciouſneſs of having healed thoſe unhappy diſputes, which threatened the empire with the moſt ſerious and alarming conſequences; but which have ſince broke out with redoubled vigour and malignity. He was aware, he ſaid, how much he ſhould feel the abſence and conſequent ſupport of the two noble Lords, in proſecuting the buſineſs of this day; but however unequal to the attempt himſelf, he deemed it a part of his duty, and without conſidering minutely all the conſequences, he ſhould, in diſcharge of that duty, abandon and renounce every collateral conſideration whatever; and do what he could, inſtead of effecting what he might wiſh.

His Grace obſerved, that the juſtice of the American war, the rights of the mother country, and the claims of America, had been ſo frequently and ſo amply diſcuſſed, that he ſhould avoid, as much as poſſible, every fact and argument that could poſſibly tend to introduce thoſe ſubjects into the preſent debate. He ſhould endeavour to confine himſelf to the terms of his motion reſpecting the treaties, and only advert to ſuch parts of the conduct of adminiſtration, and the means hitherto adopted in the proſecution of the war, as directly applied to them. The firſt ground he took was, giving a ſhort hiſtory of the ſeveral treaties entered into with the Landgraves of Heſſe, beginning with that made in the year 1702, and ending with thoſe ſeveral explanations and modifications of that made at the commencement of the late war, and down ſo late as the year 1761, when his Serene Highneſs was indemnified for the loſſes ſuſtained in his Landgraviate, by that country's being frequently made by the enemy the ſeat of war. In this hiſtorical detail his Grace ſhewed, that the ſucceſſive Landgraves, from time to time, roſe in their demands, and ſtill as they continued to extort better terms, they never failed to eſtabliſh the former extortion as a precedent for the baſis of the ſucceeding treaty, always taking care to make ſome new demand on this country. This he inſiſted was the caſe of the preſent. The preceding treaty to a ſubſidy added its continuance to a certain period. The one now under conſideration doubled the ſubſidy. His Grace then entered into ſeveral computations on the different heads of pay, levy money, ſubſidy, victualling

tualling and tranſport ſervice for the troops, which he affirmed would amount to 1,169,000*l.* and that this, with tranſport ſervice for the victuallers, would make 1,230,000*l.* and if the other articles under the head of contingencies, &c. were included, the expence of which could not be now aſcertained, he had little doubt that the whole, taken together, would be full one million and a half. He contended that this was a moſt enormous ſum for the aſſiſtance of only 17,300 men, an expence, he would venture to maintain, conſidering the number to be employed, not known in the hiſtory of mankind. Thoſe matters, however ſerious in the preſent miſerable ſtate of our finances, and the enormous load of public burdens we groan under, were not, he ſaid, what preſſed ſo forcibly on his mind. It was the tenor of the treaties, the ambiguous terms they were worded in ſome places, the dangerous precedents they eſtabliſhed or glided in, that principally called forth his attention, and gave riſe to his fears. He obſerved, he ſaid, with grief and the beſt founded jealouſy that an over-ruling *influence* had for ſome years paſt pervaded our councils; that this influence had been exerciſed in effecting meaſures of a moſt dangerous and dark complexion; that it ſometimes made its approaches by ſtealth, at other times rendered itſelf viſible in open day, and proceeded to acts of violence. Hanoverians had been brought into the dominions of the Britiſh Crown, without conſent of Parliament. An attempt was made to introduce a body of foreigners into Ireland, which miſcarried. He underſtood that the ſame attempt would be repeated, though he did not pretend to authenticate it as a matter of fact. And if any doubt remained, the preſent treaties afforded ample matter for great and ſerious alarm. In the firſt place he obſerved, that they were formed on no ſound principle of alliance or reciprocal ſupport. It is true, they were ſaid to be formed on the baſis of mutual ſuccour and ſupport, but thoſe expreſſions imported nothing; they were mere words of courſe. It was a downright mercenary bargain, for the taking into pay a certain number of hirelings, who were bought and ſold like ſo many beaſts for ſlaughter. There was no common intereſt which mutually bound the parties; and if there was, the conduct of the foreign Princes was the moſt extraordinary that was ever known. They were to be ſubſidized. They were to have levy money. They were to have a double ſubſidy. Their corps were to be kept up complete. They were to be paid till the troops returned to their reſpective

ſpective countries; and the ſubſidies were to be continued according to the tenor of the reſpective treaties, one or two years after the troops ceaſed to be of any ſervice to us. But taking it on the other ground, that the treaties were formed on the true baſis of alliance, what would be the conſequence? That if any of thoſe powers were atacked, or ſhould wantonly provoke an attack, for the engagement was left general and unconditional, we ſhould give them all the ſuccour in our power. Thus, for the aſſiſtance of a few thouſand foreign mercenaries, we are not only to pay double, but we are to enter into a ſolemn engagement to exert our whole force to give them all the ſuccour in our power, if the Landgrave or Duke ſhall be attacked or diſturbed in the poſſeſſion of his dominions. His Grace begged next to recall to the memory of their Lordſhips the language held by the friends of the preſent meaſures towards the cloſe of the late war. He ſaid, a very ingenious gentleman [Mr. Mauduit] at that period wrote a pamphlet, entitled, "Conſiderations on the German war," in which he introduced ſeveral computations of the coſt of every French ſcalp to this nation; and made it amount to ten thouſand pounds per head. He therefore recommended to the noble Lords, who then approved of that gentleman's eſtimate, to conſider what an American ſcalp would coſt, when 17,000 foreigners would ſtand us in at the rate of one million and a half *per annum*. He obſerved, he had many noble Lords in his eye, who profeſſed themſelves of that opinion. One noble Lord, now abſent from his place, [Lord Bute] made uſe of the very arguments here adverted to in debate. And a noble Duke now deceaſed [the Duke of Bedford] maintained the ſame opinions. He remembered a little after, when we were victorious in every quarter of the globe, when all we wanted was money, and all we had to contend with was climate, to prevent us from poſſeſſing ourſelves of the whole Spaniſh America, the ſame two noble Lords, and their friends, juſtified the peace on no other ground but our inability to raiſe new taxes. They allowed that conqueſt was certain, but that the national debt was enormous. Where then was the material change of circumſtances, after the concluſion of the preſent campaign, when the debt, which was, after a thirteen years peace, not reduced above ſeven millions, where the conqueſt was not certain, and where, if it were, it would be a conqueſt over our own ſubjects, operating to our own ruin, unaccompanied by either fame or advantage? Would not we then,

as at the cloſe of the late war, be in a ſituation, when even to proſecute certain conqueſt would be the height of folly and political frenzy?

His Grace remarked on the danger of keeping a body of 12,000 foreigners together, under the abſolute command of one of their own generals; of the poſſibility, though he ſhould conſent to ſerve under a junior officer, of his arriving to the ſupreme command; and of the confuſion which might be created, by a difference on this head, between the foreign general and the commander in chief. He laid great ſtreſs on that paſſage in the Heſſian treaty, in which it is proved, article 9th, that his Majeſty ſhall make uſe of this body of troops by land in Europe whenever he ſhall think proper. He ſaid, he could not ſee what operations they could be employed in, unleſs it were in this country, in caſe of a rebellion or a revolt, which none foreſaw but the adviſers of the preſent meaſures. He obſerved, that the foreign troops were to be double officered, which was another weighty and uſeleſs expence; that is, every company of 100 men were to have two captains, two lieutenants, two ſecond lieutenants. and two enſigns, and ſo in proportion in ſervants, &c. So that, out of the whole number, upwards of 3000 men were not to be rank and file, contrary to every rule of war, which, in a given number of men, endeavours to render the rank and file as numerous as the nature of the ſervice will poſſibly allow; becauſe it is on them that the weight of attack or defence generally reſts. It is ſo in our own troops, and has always been an eſtabliſhed uſage, never to allow more than four officers to a corps of 100 men.

His Grace made ſome obſervations on the ſuperceſſion of the ſeveral officers in the naval and military departments, in which he maintained, that nothing like it had ever happened in the Britiſh ſervice, without complaint, or without enquiry. Great faults had been found with General Gage and Admiral Graves; the miſcarriages which happened were imputed to their want of conduct; yet no charge is made againſt them, but they are recalled. To keep up the farce, the former is received coolly, but in a few days after a new commiſſion is made out, appointing him commander in chief; and in a few days again, without any cauſe even pretended, for there could be none as he remained on the ſpot, he is ſuperſeded, and General Howe appointed in his room. Yet that is not the beſt of it; Admiral Shulham is appointed to ſucceed Admiral Graves; but before he could

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take poſſeſſion of this command he is ſuperſeded, and Lord Howe appointed in his room. Such an extraordinary conduct was ſurely never known; but perhaps the ſuperſeded Admiral might think himſelf eaſy under this indignity, if what was reported was true, that he was to be created an Iriſh Peer. For the honour, however, of the noble Lord who preſides at the head of the Admiralty, he hoped his Lordſhip would riſe and explain this laſt official riddle; and fairly, and with his uſual candour, inform the Houſe, whether thoſe arrangements originated from him, or whether he was really, as was reported, over-ruled in the cabinet.

This changing, appointing, and ſuperſeding, beſides the inſtability it denoted, preſented another matter well worthy their Lordſhips' conſideration. It ſhewed that the ſervice was diſagreeable on one hand, or that the ſuperior officers were paſſed by and neglected on the other. He ſaid, there were ſome officers of long ſervice and tried abilities preſent, as well as ſeveral officers of high rank in the army. He would be glad to know from them what were the motives that induced adminiſtration to paſs by the ſenior officers, and devolve the command upon a very young major general. He knew that it muſt proceed either from an averſion to the ſervice in them, or a total want of reſpect to their perſons from thoſe in power.

Much ſtreſs, he underſtood, had been laid on the juſtice and popularity of the preſent meaſures: he ſhould not debate that ſubject now. It was ſaid that the independent part of the nation were for them; but, for his part, he queſtioned the aſſertion ſtrongly in the extent it was contended; for, in the other Houſe, he was informed, that the treaſurer of the navy, [Sir Gilbert Elliot] and the paymaſter of the forces, [Mr. Rigby] the one deriving his ſupport and conſequence from the cabinet, and the other from his party, and both deeply intereſted in meaſures which, if purſued, muſt ſhortly be the means of procuring for them princely fortunes, were thoſe who chiefly ſupported coercive meaſures. Thoſe gentlemen and their connections, with the whole race of money-jobbers, contractors, &c. he believed, formed no ſmall part of the *independent* majorities which had been ſo loudly echoed, both within and without doors, as ſupporting and precipitating this country into a cruel, expenſive, and unnatural civil war.

He obſerved, that the war, if carried on, would not only be a war of heavy expence and long continuance, but would

be attended with circumſtances of cruelty, civil rage, and devaſtation hitherto unprecedented in the annals of mankind. We were not only to rob the Americans of their property, and make them ſlaves to fight our battles, but we made war on them in a manner which would ſhock the moſt barbarous nations, by firing their towns, and turning the wretched inhabitants to periſh in cold, want, and nakedneſs. Even ſtill more, this barbaric rage was not only directed againſt our enemies, but againſt our warmeſt and moſt zealous friends. This he inſtanced in the late conflagration of the loyal town of Norfolk, in Virginia, as adminiſtration had ſo frequently called it, which was reduced to aſhes by the wanton and unprovoked act of one of our naval commanders. Such an act was no leſs inconſiſtent with every ſentiment of humanity, than contrary to every rule of good policy. It would turn the whole continent, as well friends as foes, into the moſt implacable and inveterate enemies. It would incenſe our friends, and render our enemies at once fierce, deſperate, cruel, and unrelenting. It diſgraced our arms; it would render us deſpiſed and abhorred, and remain an indelible blot on the dignity and honour of the Engliſh nation.

His Grace ſtated ſome paſſages in the treaties, and commented on them very fully, where ſuch paſſages explained matters which might be productive of diſagreements between foreign and native troops, and ſtated the omiſſions that had been purpoſely or ignorantly made, particularly in regard to a cartel for the exchange of priſoners. He ſaid that matter had been totally paſſed over in ſilence; and if any puniſhments ſhould be inflicted on thoſe who, by the language of Parliament, were called rebels, the conſequences might be dreadful. He alluded to the caſe of Ethan Allen, who, being found in arms, was brought home priſoner; yet adminiſtration dared not bring him to a trial, even under their favourite act of Henry VIII., either becauſe they knew that he could not be legally tried, or that they feared an Engliſh jury could not be prevailed on to find him guilty. Be that as it may, the preſent treaties were extremely defective in that point; and if adminiſtration were not obſtinately determined to act wrong in every particular, they would endeavour to provide againſt the numerous inconveniencies which muſt ariſe from a want of a cartel.

He concluded, by informing their Lordſhips, that what he was now going to ſtate might be deemed improper, as expoſing our national weakneſs; but if it was eſſentially neceſſary,

neceſſary, he preſumed that objection would be removed; and if the objection could be removed on the ground that France was perfectly acquainted with the preſent ſtate and condition of the national force now within the kingdom, that would be another good reaſon, that nothing reſpecting our means of defence ſhould be concealed. He then ſaid, that the whole of our military force, now within this kingdom, conſiſted of the foot-guards, compoſed of 64 companies, amounting to 2500 men, 1000 of which were deſtined for America; three regiments of horſe and body guards, of about 1500; four battalions returned from America, with officers only, at about 100 each; ten regiments of dragoons, of 200 men each; and three complete battalions of infantry; the whole amounting, allowing for the 1000 men draughted from the guards, to about 7000 men. Suppoſing, then, that 3000 of thoſe were put into the garriſons of Plymouth, Portſmouth, and Chatham, the remainder fit to take the field, after a ſufficient number was left to guard London, allowing 1000 for each place, would not be above 3000; which, he contended, would be totally inadequate to any military operation, ſhould France and Spain think proper to take an advantage of our defenceleſs ſtate. He ſaid, indeed, that a militia was to be raiſed, in order to ſupply this deficiency; but, however conſtitutional that mode of national defence might be, he inſiſted that it would never anſwer any purpoſe of repelling a powerful enemy, while it continued to be ſo diſgracefully and improperly conducted as it was at preſent, when unqualified officers were admitted on one hand, and ſubſtitutes on the other. Beſides, though the militia had been officered and manned much better, it could not be expected that they could face a veteran army, ſuperior in numbers and diſcipline. And as for the invalids, every man among them almoſt, fit for real ſervice, had been already draughted; ſo that, on the whole, the picture which ſuch a ſcene of internal weakneſs, joined with a few ſhips not half manned, preſented, was moſt dreadful. It was, however, neceſſary to bring it forward, to ſee if any thing could ſtimulate our governors to provide for our national ſafety, and prevent us from falling a prey to our dangerous and ambitious neighbours.

The Earl of *Suffolk*. I cannot ſay, my Lords, that the noble Duke, who made the motion, has ſtated one ſolid objection to the preſent treaties, or pointed out a ſingle inſtance in which our former treaties with thoſe princes have been

materially departed from. His Grace has taken great pains to ſwell the account by ſeveral items, which, according to my apprehenſion, do not properly belong to it; but if they did, they would not prove a tittle relative to the comparative dearneſs or cheapneſs of the terms on which the troops have been procured. The tenor of the treaties themſelves are no other than what has been uſual on former occaſions. The preſent, it is true, is filled with pompous, high-ſounding phraſes of alliance, but I will be ſo ingenuous as to confeſs to the noble Duke, that I conſider them merely in that light; and if he will, I allow, that the true objects of thoſe treaties is not ſo much to create an alliance as to hire a body of troops, which the preſent rebellion in America has rendered neceſſary; I will likewiſe give this general anſwer to his Grace relative to the comparative expence, that, ſhould the war be terminated in one year, the bargain will be manifeſtly advantageous, becauſe we ſhall pay but one year's double ſubſidy, which is equal to two years ſingle ſubſidy. If the war ſhould continue two years, in that event we ſhall neither gain nor loſe, becauſe two years double ſubſidy will be equal to four years ſingle, the uſual term ſtipulated in former treaties; and, if the war ſhould continue longer, I confeſs that the terms would, in that event, be diſadvantageous. But, my Lords, though the terms were really as diſadvantageous as the noble Duke has endeavoured to repreſent them, if we wanted the troops, we ſhould have been obliged to acquieſce. The proper queſtion is, Whether we do want them? I muſt declare for one, that I think we do; and, as ſuch, am happy in reflecting, that we were able to procure them on ſuch eaſy and beneficial terms; for all circumſtances conſidered, ſuch as the very ſhort notice, the diſagreeableneſs of the ſervice at ſuch a diſtance from home, to be tranſported acroſs the Atlantic ocean, induce me to be ſurprized, not that we were obliged to pay ſo dear for them, but rather ſerve to aſtoniſh me how we were able to procure them ſo cheap! Beſides, the noble Duke ſeems to forget that, even on his own principles, foreigners are much more proper to be employed in this war than natives; for, if the war be juſt, of which I have no doubt, and that troops muſt be employed, and that foreigners can be more eaſily had than natives, the meaſure will follow of neceſſity, and can be fairly juſtified on that ground. The noble Duke, alluding to a paſſage in the Heſſian treaty, ſays, that the troops being *under* the command of a ſenior officer, the ſupreme command

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of the whole army will naturally devolve on him, when the Britiſh commander in chief happens to be a junior officer. I do not pretend to ſpeak from my own knowledge; but I would appeal to any noble Lord in this Houſe, acquainted with military matters, whether the commiſſion given a commander in chief, does not ſuperſede any other; and whether, of courſe, a young major-general, acting in that character, will not thereby have an abſolute and ſupreme command over every officer in that ſervice, be his rank in the army what it may. The noble Duke ſays, we brought over Ethan Allen in irons to this country, but were afraid to try him, leſt he ſhould be acquitted by an Engliſh jury, or that we ſhould not be able legally to convict him. I do aſſure his Grace, that he is equally miſtaken in both his conjectures; we neither had a doubt but we ſhould be able to legally convict him, nor were we afraid that an Engliſh jury would have acquitted him; nor further, was it out of any tenderneſs to the man, who, I maintain, had juſtly forfeited his life to the offended laws of his country. But I will tell his Grace the true motives which induced adminiſtration to act as they did. We were aware that the rebels had lately made a conſiderable number of priſoners, and we accordingly avoided bringing him to his trial from conſiderations of prudence; from a dread of the conſequences of retaliation; not from a doubt of his legal guilt, or a fear of his acquittal by an Engliſh jury. The noble Duke has quoted one inſtance to ſhew that the expence of the foreign troops has been encreaſed, becauſe they are double officered. I do not pretend to ſpeak directly as to the neceſſity of ſuch an arrangement; but I have no doubt but it is agreeable to the uſage of the Heſſian ſervice, and as ſuch is no more than what has been agreed to by former treaties.

The Earl of *Coventry*. I do not riſe to ſpeak expreſsly to the preſent treaties, further than they relate to the meaſures now purſuing relative to America, which, for the reaſons ſo often urged by me, I ſhall ever continue to think impolitic and unwiſe, and as ſuch ſhall declare my hearty diſapprobation of them. Not that I think the wiſeſt or beſt concerted meaſures that were ever planned, can avert the deſtruction which, from the nature of the encreaſing power, wealth, and population of the colonies, is, in my opinion, inevitable. It is in the body politic as in the natural body, the ſeeds of diſſolution are contained in the firſt vital principles of both. Sooner or later the event muſt happen;

and the greateſt ſtretch that human wiſdom can effect, is no more than to prolong the duration of the one, as the greateſt care and attention, joined with the beſt native conſtitution, may do to prolong the other. If you look on the map of the globe, and view Great Britain and North America, and compare the extent of both; if you conſider the ſoil, the harbours, rivers, climate, and encreaſing population of the latter, nothing but the moſt obſtinate blindneſs and partiality can prevail on any man to entertain a ſerious opinion that ſuch a country will long continue under ſubjection to this. The queſtion is not, therefore, how we ſhall be able to realize ſuch a vain, deluſive ſcheme of dominion, but how we ſhall make it their intereſt to continue faithful allies and warm friends. Surely that can never be effected by fleets and armies. On the contrary, inſtead of meditating conqueſt, and exhauſting our own ſtrength in an ineffectual ſtruggle, we ſhould vote a thanſgiving, and wiſely abandoning all wild ſchemes of coercing that country, we ſhould leave America to itſelf, and wiſh to avail ourſelves of the only ſubſtantial benefit we can ever expect to derive from it, the profits of an extenſive commerce, and the ſtrong ſupport of a firm and friendly alliance and compact for mutual defence and aſſiſtance. It has been my misfortune, when I have formerly ſpoke on this ſubject, to be miſunderſtood by a learned and noble Lord I now ſee in his place [Lord Mansfield]. His Lordſhip ſuppoſed, that I wiſhed for a ſeparation of the two countries, purely to convince America of her weakneſs and inability to ſubſiſt without us, and that with an expectation of her again returning to her ſubordinate ſituation. The noble Lord, I have no doubt, underſtood me in that ſenſe; but I truſt his Lordſhip will do me the juſtice to believe that I meant no ſuch thing. I think ſuch an union impracticable, and I think too that ſooner or later a formal ſeparation muſt take place. In ſuch an event I allow, it would be the mutual intereſt of both countries to be connected by every tie of alliance and friendly intercourſe; in ſhort, to be united in every thing but the ſame government.

The Earl of *Carliſle*. I truſt I ſhall obtain credit when I aſſure your Lordſhips, that no conſideration whatever ſhould induce me to give a negative to the motion now made, if I had not been perfectly ſatisfied of the neceſſity of the meaſures carrying on againſt America. It is not, in my opinion, a mere queſtion of party, but involves in it the conſequences of the total ruin or ſalvation of this country.

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If we ſhould concede, ſo as to relinquiſh every ſubſtantial benefit which we might derive from our political ſovereignty, and commercial controul over our Colonies, what will be the probable conſequence, but that this country, deprived of the advantages of an immenſe commerce, and every thing flowing and connected with thoſe advantages, will gradually ſink into obſcurity and inſignificance, and fall at length a prey to the firſt powerful or ambitious ſtate, which may meditate a conqueſt of this iſland? If we conſider the preſent ſtate and condition of ſeveral of the great powers of Europe; if we reflect on their ſtrength and immenſe reſources; if viewing the map we ſee the figure Great Britain cuts in reſpect of extent of territory; if we collect the whole into one focus, and connect the ideas of their ſtrength, and our own native imbecillity, ſhould America be torn from us, the proſpect is indeed dreadful! It is therefore, in my opinion, a meaſure, not only neceſſary to the vindication of our honour, but even eſſential to our very exiſtence as a people. It calls on us to exert every power, and ſtrain every nerve, to bring America back again to her duty, and to ſecure to us her ſubordinate dependence. On this ground, and this alone, I am warmly for the meaſure propoſed to be reſcinded by this motion. I have not a doubt of the neceſſity of coercive meaſures in the preſent ſtate and diſpoſition of America; and under that conviction, I am perſuaded that the number of hands required to carry on our manufactures, the little uſe of new levies, at leaſt for the firſt campaign, and the deſire that every friend to his country ought to have for putting a ſpeedy determination to the preſent unhappy troubles, united, create an evident neceſſity for the employment of foreigners, in preference to native troops. Beſides, conſider only the unwieldy bulk of this vaſt extended empire, and the operations neceſſary, even in caſe of a defenſive war, and determine, if it be poſſible, for ſuch an inconſiderable ſpot as this iſland is, in the nature of things, to furniſh numbers ſufficient to carry on operations the nature of ſuch a ſervice will neceſſarily demand.

His Royal Highneſs the Duke of *Cumberland.* My Lords, I ſhall not enter into the whole field of the American debate, which has been ſo ably diſcuſſed by your Lordſhips: but as I have conſtantly oppoſed theſe oppreſſive meaſures, I heartily concur with the motion made by the noble Duke, becauſe it is full of reſpect and duty to the crown; ſtrongly reprobating the miſconduct of miniſters, and laying the baſis for a happy reconciliation between

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Great Britain and her Colonies. My Lords, I lament to ſee Brunſwickers, who once, to their great honour, were employed in the defence of the liberties of the ſubject, now ſent to ſubjugate his conſtitutional liberties in another part of this vaſt empire.

The Duke of *Chandois*. The noble Duke who made the motion, has charged the ſupporters of the meaſures reſpecting America with favouring deſigns ſubverſive of the liberties of their country. I do aſſure his Grace, if I thought the meaſures he ſpeaks of had any ſuch tendency, neither his Grace, nor any noble Lord in this Houſe, would be further than I from giving or affording them the leaſt countenance or ſupport. It is becauſe I am fully ſatisfied, that thoſe meaſures are perfectly neceſſary and conſtitutional, that I have uniformly given them my ſanction as a member of this Houſe; and I will likewiſe add, that I am no leſs convinced of the propriety of the meaſures than of the high integrity and abilities of thoſe who have adviſed them. The noble Duke has thrown out the moſt unjuſt charges and ill-founded inſinuations againſt the whole body of the militia. As a Lord Lieutenant of a very reſpectable county, I find myſelf included in the cenſure, and look upon my honour very materially wounded. I am certain I can anſwer for the corps which I have the honour to command; nnd have reaſon to preſume it is univerſally ſo throughout the ſervice, that no officers but ſuch as are duly qualified to ſerve are admitted. I therefore am authorized to ſay, that the noble Duke is totally miſtaken in his aſſertions, ſo far as has come within my own knowledge; and have a right to preſume, that he has been equally miſtaken, as applying to every other corps in his Majeſty's ſervice.

The Duke of *Mancheſter*. My Lords, after the long and accurate detail given by the noble Duke, of the treaties now before the Houſe, I will not detain your Lordſhips by a recapitulation of particulars; nor indeed do I think it very material to except againſt particulars of a treaty, where the whole appears to me greatly reprehenſible; or to cavil with miniſters on little articles, whilſt charges of a heavier nature may be laid to their account. The information given to us in his Majeſty's ſpeech at the opening of the ſeſſion, of the introduction of foreign troops into the garriſons of Gibraltar and Mahon, without the previous conſent of Parliament, gave me a ſerious alarm. The *unconſtitutional doctrine* held in this Houſe, ſetting up the power of the prerogative above the

the power of Parliament, the attempt to introduce foreign troops into Ireland, without even aſking the opinion of the Britiſh Parliament, all concur to bear ſtrong teſtimonies that an *abridgment* of Britiſh, as well as American liberty, would not be diſagreeable to ſome of our preſent rulers. Long has this nation ſurvived the loſs of that liberty which was once the lot of her neighbouring European kingdoms; but, my Lords, there is at preſent ſuch an indifference to ſerious things, ſuch as love of eaſe and luxury, which gives to miniſters an almoſt irreſiſtible ſway, that I doubt this country is very near that criſis when ſhe will paſſively ſurrender all thoſe rights her anceſtors held moſt dear. My Lords, I am not vain enough to think that I poſſeſs any power of ſpeech to awaken to public zeal; but with your permiſſion I will ſubmit to you ſome reaſons, drawn from ſtate policy and convenience, why we ſhould not be too eager to puſh on this war. My Lords, whatever was the original cauſe of the war, whatever were the claims of Great Britain, or however unjuſtifiable might be thought the reſiſtance of the colonies to thoſe claims, no impartial man can ſay, that in nothing has Britain been to blame. But waving this diſquiſition, let us conſider the preſent ſituation of affairs. The events of the laſt campaign ſhew us, that the war will not be of very eaſy concluſion; though we allow the Britiſh troops to have been ſucceſsful at the attack on the heights of Charles Town, yet was that ſucceſs dearly bought, and greatly balanced, by the loſs of forts, of garriſons, I might ſay of *nations*. The defection from government has been total; total, my Lords; for beſides the deſolated priſon of the Britiſh troops, the devoted Boſton, and the town of Halifax, kept in awe by a large garriſon, what remains to government of all the continent of America, as far as Britiſh colonies extend? Nay, my Lords, the misfortune has ſpread further; the conqueſts of the laſt war, ſo dearly rent from France, are mouldering from us; and though we have reports, that the Provincial arms have met a check at Quebec, great part of Canada owns another maſter. Still are we bent to puſh on an invading war, againſt a powerful enemy, with every circumſtance againſt us but the advantage of our fleet. Let us now conſider the means we have to proſecute this war. The Britiſh troops, we find, fail not, my Lords, in point of courage, but they ſhew an honeſt backwardneſs to engage againſt their fellow-citizens. To Germany we have recourſe for aſſiſtance; 17,000 German mercenaries are at laſt obtained; with

with theſe and a ſmall Britiſh army, many of whoſe regiments conſiſt entirely of recruits, ſome of whom are of the worſt deſcription, for I have been told that even the priſons have been ranſacked to augment the number, is this country to engage a nation, who are *enthuſiaſtic in their cauſe*, have no hopes but in ſucceſs, are united by every tie, have every ſtimulative to courage, that ſhame or ambition can give an army of brothers. The mercenaries we employ, for they may be juſtly called ſo, ſince that man muſt be deemed *a mercenary ſoldier who fights for pay in the cauſe in which he has no concern*, are a motley band of various nations, who are yet in Germany, are yet to be conveyed acroſs the Atlantic; ſome will periſh in the way, ſome deſert, but I will ſuppoſe the remnant landed on the American ſhore—Will conqueſt immediately follow? Impoſſible to expect it. If the generals know their duty, and we have no reaſon to doubt it, the firſt employment they muſt have, will be to ſecure a poſt, in caſe of diſaſter, to eſtabliſh a place of arms, to endeavour to form magazines. Elſe whence can this army be ſupplied with proviſions? Is it from England, from the Engliſh fleet? The fleet cannot ſail within the land, cannot go up the rivers; ſo that the army, without magazines, cannot poſſibly quit the coaſt, and great part of the campaign muſt be ſpent in preparations. My Lords, we muſt look upon this war as a war of conqueſt. It is too late to treat the Americans as rebels, that the dignity of government require to be puniſhed; they are a powerful nation, a formidable enemy. The army muſt be divided, for many are the forces with whom they are to engage. Are we certain, that even the troops propoſed to be employed, will not be oppoſed by greater numbers? Can we conceive one campaign can end the war? My Lords, there is another very material conſideration, on which I will touch but gently, for I wiſh not to add to embarraſſments: Are miniſters certain they are prepared for the expences of the war? The great annual outgoings, the public debt, were, at the cloſe of the laſt war, thought a ſufficient reaſon for accepting a peace certainly inadequate to the glories of the war. In thirteen years peace ſome ſaving has been made; the expence of the enſuing campaign promiſes to ſwallow up the whole of that ſaving. Thus, in point of revenue, are we in the ſituation we were at the end of the war. But we have loſt the American trade, without an equivalent. The trade of the laſt year to ſupply the Spaniſh fleta, and the demands through Ruſſia, will be no laſting

ing reſource. The one is over; the other, I am informed, declines. The additional tax laid upon land will, it is ſuppoſed, not pay the expence of the conveyance of the troops. If miniſters ſhould be obliged to anticipate the taxes, if the Bank ſhould be induced to lend the aſſiſtance of their credit, if the taxes ſhould fall ſhort, if any unforeſeen calamity ſhould happen, might not the public credit receive as rapid a ſhock as within theſe few years befel the India Company? In ſhort, my Lords, the difficulties are ſo numerous, that one ſhould be inclined to think ſome fatal evil influence confounded the wiſdom of our counſellors. My Lords, I read in Holy Writ, that when Ahab, for his ſins, was devoted to deſtruction, the hoſt of heaven was aſſembled before the Lord; and the Lord ſaid, "Who will perſuade Ahab to go up, and war againſt Ramoth Gilead, that he may fall there? And an evil ſpirit ſaid, I will go forth and perſuade him. And the Lord ſaid, Go, and thou ſhalt perſuade him." I ſhall not, I hope, be thought irreligious, if I apply this allegory to the Britiſh nation. It does ſeem, as if in puniſhment for their offences, they were condemned to go and war againſt their brethren in America, *and to fall there.* I wiſh the application may not prove juſt; and yet, my Lords, every thing gives it the appearance of truth. No meaſures taken to bring the war to a concluſion; no plan effective to force the Americans to accept of the terms we are pleaſed to preſcribe; a war of detail, of partizans, that can lead to nothing but to perpetuate rancour and animoſity. I am informed, by the late diſpatches from Virginia, that the governor, who has long quitted the reſidence of his government, to hold his ſtate aboard a cruizing ſhip, has had the notable ſucceſs of firing the town of Norfolk, the largeſt in Virginia. I make no doubt he has a commiſſion for what he does; I do not mean his commiſſion of governor, for that is a commiſſion to protect thoſe over whom he is appointed to preſide; but a commiſſion to deſtroy, to burn the towns, to ravage the plantations, drive off the ſlaves, to kill thoſe that reſiſt. Theſe are the warlike achievements of the Governor of Virginia. But as I do not doubt he has orders for what he does, far be it from me to condemn an abſent man. But I cannot think well of thoſe who from hence command this wanton ruin, this unneceſſary ravage, this uſeleſs deſolation. My Lords, I muſt farther take notice of one extraordinary particular, that this town was ſuppoſed to contain many friends of government; and yet ſuch is the *determined vengeance*, that even friends are fired

fired upon, in hopes of hurting the enemies intermixed, and all are involved in one complicated deſtruction. Can miniſters think, that after this proceeding, one friend to government will remain in America? Can they expect that any one, bleſſed with common ſenſe, will eſpouſe their cauſe, when they do not protect thoſe who mean obedience? My Lords, I am for theſe reaſons a hearty ſupporter of the noble Duke's motion, and particularly becauſe it leads to that peace that all muſt allow deſirable. I am the more earneſt, as I am convinced it is ſtill to be attained. Provoked as the Americans have been, they wiſh for reconciliation. They dread to be forced into independency. They would even buy that peace, not at the price of their liberty, that muſt be ſecured to them; their purſe and property muſt be their own: but I have good grounds to think, could they be certain of being dealt with by people who were ſincere, whom they could truſt, they would ſubmit to all neceſſary regulations of commerce; nay more, they would aſſiſt the ſtate with a revenue, but they muſt raiſe it themſelves; they muſt not be taxed from hence. My Lords, when men are in ſuch a diſpoſition, I will add no more, but that if we blindly reject them, we do not know the value of that people we thus for ever wantonly caſt from us.

The Earl of *Effingham*. My Lord, I ſhall take up much leſs of your Lordſhips' time than I expected to do, on the exorbitant terms of the treaties. As the noble Duke, who moved for the addreſs, has already ſufficiently proved the unreaſonableneſs of them. I ſhall only make one obſervation on the ſubject, which is, that if theſe 17,000 men have the effect we are promiſed they ſhall, of ſubduing the Americans in one campaign; their pay, together with the ſubſidy, and the exceſs of the levy-money, above what is ever allowed in England, would furniſh the pay and cloathing of 40,000 men with their proper officers.

On the legality of theſe treaties I ſhall trouble your Lordſhips a little longer.

The firſt and moſt ſtriking point is, the adminiſtration of juſtice being reſerved to a foreign prince, within the dominions of the crown of Great Britain; the better to effect which, an executioner with ſervants, is part of the Heſſian eſtabliſhment, to be levied by Great Britain; and no exception, or limitation of this illegal power ſeems to have been thought of, even in caſe the civil government ſhould be reſtored in America.

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The ſecond great conſideration is, the probability of a foreign general commanding in America; for though it has been ſaid, by a noble Earl in high office, that the commiſſion of commander in chief will entitle our young major-general to the command, yet it will not, I believe, make a ſenior officer of ſpirit ſerve under him, though it may make him retire from the army.

But in the Heſſian ſtate annexed to the treaty, there is, beſides the lieutenant and major-generals, a general commandant. How are theſe two Sofias to ſettle the matter? I confeſs it appears to me liable to great confuſion.

With regard to the ſtipulation of aſſiſting Heſſe if attacked, it is not a juſt war alone which we have engaged to enter into for the protection of the Landgraviate; for a caſe may happen, in which, by a decree of the Imperial chamber, the directors of the circle are ordered to march into the country, to compel the Landgrave to ſome act of juſtice or reſtitution, in which caſe he will be, according to the eleventh article of the treaty, "actually attacked by "force of arms, without having firſt uſed open force againſt "him who attacks him;" and we muſt either excuſe our breach of the treaty by our miniſters' ignorance of the Imperial conſtitutions, or elſe enter into a war, like that in America, not to maintain, but to ſubvert, the liberties of the Germanic body.

With regard to the latter part of the motion for ſuſpending hoſtilities, I ſhould think myſelf unpardonably tedious, was I to go over again all the arguments which ſhew the inexpedience of the war.

I ſhall only ſtate to your Lordſhips, in addition to what I and many others have ſaid before, ſome information which I have received from the beſt authority, reſpecting the reſources of the Provincials, and which I ſhould think it my duty to lay before the Houſe, even if it did not come immediately within the ſubject of our preſent debate.

The firſt of our great miſtakes ſeems to be in the number of their people; when the general congreſs had ordered returns of the number of inhabitants in each province, an idea prevailed that theſe returns were to be the meaſure of their quotas.

It was proved at Boſton that they only returned about four in five of their true numbers, and it was pretty certain that other places in New England returned ſtill a leſs proportion; yet the whole number amounted to three millions

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and a half, it can therefore be no exaggeration to ſay that they conſiderably exceed four millions.

Their plan of finance is admirable for its ſolidity and ſimplicity.

In September laſt, the general congreſs iſſued three millions of dollars in paper, for the ſecurity of which all property in the twelve colonies ſtands pledged. They will this ſummer lay a tax amounting to about a dollar per head, which will probably bring in moſt of their bills, which will be again iſſued in payment of troops, &c.

For the convenience of the individuals, each colony will iſſue about half a million in ſmaller bills, on its ſeparate credit, which will be iſſued for the provincial treaſury, where the continental bills will be received and returned to the general treaſury. What a different paper credit is this from what is now weighing down this unfortunate country! How worthy is the plan of imitation, wherever the annual revenue can be made to bear any proportion to the annual expence?

In the ſummer of laſt year, the general congreſs fixed the price of powder and other ſtores, alſo of proviſions, &c.

One hundred pounds of good powder was rated at fifty dollars or fifteen pounds currency, equal to about eleven guineas ſterling; for this the importer would receive, at his option, ſilver to that amount, or 2,500 pounds of flour, or in proportion of lumber or other proviſions; this in the Weſt-India iſlands, would fetch thirty pounds; ſo there is no fear of their being deprived of either their ſilver, or their ſupply of military ſtores. Some have doubted whether they had any ſilver; but they ſhould conſider, that beſides the contraband trade, our army muſt furniſh them with ſome millions of dollars in ſpecie every year.

Thoſe who doubt their meeting with foreign aſſiſtance would do well to ſatisfy themſelves, that the agent from Madrid to Philadelphia had really no other buſineſs than to preſent the colleges in America with the labours of the illuſtrious tranſlator of Salluſt.

It is alſo worth their enquiry whether or no the French merchants have bought American commodities with arms out of the royal magazines, delivered at 20 per cent. leſs than the current prices.

Another idea has been that they wanted ſaltpetre. To obviate this, the general congreſs printed and diſperſed an account of the beſt and ſimpleſt method of making it. In

Auguſt

Auguſt laſt, a ſaltpetre work was become a neceſſary appendage to a farm, and no doubt is made; but from the numbers that are now eſtabliſhed, ſaltpetre will become a very conſiderable article of their future exports.

The management of the Indians was an early object of attention. The general congreſs conſidering what an unprincipled gang the bulk of Indian traders were, prevailed on a ſufficient number of reſpectable men to undertake that trade. The natural event was, that the former traders were execrated, not without ſome reflections on thoſe who ſhould have prevented, not encouraged, the abominable frauds they had been ſubject to.

I ſhould now wiſh your Lordſhips to advert to your ſituation nearer home. The Spaniards are again armed, and France has alſo prepared a conſiderable force. May not their late misfortune at Algiers make them wiſer; if zeal for religion be ſuppoſed to actuate them, it is not poſſible that France may convince them, that by going to Ireland they would ſerve both their ſpiritual and temporal intereſts. I appeal to a noble Viſcount in my eye, if more than half that kingdom is not in their intereſt; they would be joined by numbers, the moment they land, between Cork and the Shannon; and what force have you to oppoſe them either by ſea or land?

My Lords, I never can ſtand up in your Lordſhips preſence without throwing in a few words on the juſtice of this unnatural war.

The principal foundation on which it reſts, is an idea, which has been with much pains promulgated of late. That taxes are not *de gratiâ*, but *de jure;* that the neceſſity of the ſtate gives to the legiſlative body a right to impoſe them, and that the people have no right to withold them.

I need no other proof that theſe principles are encouraged by government, than that books publiſhed by perſons who enjoy penſions and favours contain them, while there is no inſtance of any court favour being extended to any of thoſe who have laid down other doctrines. Indeed, my Lords, the ſituation in which ſome of theſe libellers of the conſtitution are placed, decency forbids me to name: but this I will aſſert, that whatever doctrines others may hold, and whatever name they may pleaſe to give to their own principles, the moment I am ſatisfied of the truth of theſe arguments, I ſhall become a moſt determined and zealous Jacobite, and ſhall hold myſelf bound in conſcience and honour,

to go all lengths, and riſque all I hold dear as an Engliſhman, in atonement of having approved the Revolution and ſworn allegiance to the Houſe of Brunſwick.

The Earl *Talbot*. The noble Earl who ſpoke laſt, has certainly hit off one leading feature of the Americans. His Lordſhip tells you, that even in the midſt of their zeal for freedom and independency, they were not able to conquer their natural propenſity to fraud and concealment. He tells you, that to evade the order of the Congreſs for ſupplying their quotas of men and money, they purpoſely concealed their real numbers. However I may differ from the noble Earl in the deduction he has drawn from this fact, I am not permitted to doubt the truth of it, as coming from a perſon in whoſe eſtimation and good opinion they bear ſo high a place. This with me, would be the ſtrongeſt reaſon imaginable for not truſting to their profeſſions, when it is ſeriouſly ſtated, that they are to be held by no ties whatever, not even by their moſt ſacred engagements to ſupport a cauſe, which they deem eſſential to their very exiſtence as a free people. They have had all along a reluctance to order and good government, ſince their firſt ſettlement in that country, and I am every day more and more convinced that this people will never be brought back to their duty, and the ſubordinate relation they ſtand in to this country, till reduced to an unconditional effectual ſubmiſſion. Let them promiſe or hold out what preſent convenience or future views of independence may ſuggeſt, believe me, my Lords, they will never give up their favourite object, till they are fully convinced, that the object is unattainable. No conceſſion on our part, no lenity, no durance, will have any other effect but that of increaſing their inſolence, and encouraging them daily to riſe in their demands. They have been obſtinate, undutiful, and ungovernable, from the very beginning: from their firſt early and infant ſettlements in that country. They began to manifeſt this ſpirit ſo early as the reign of Charles the Firſt. They diſputed our right of fiſhing on their coaſts, in the times of the commonwealth and protectorate. But was this claim to exemption acceded to on our part, or this privilege inſeparably connected with ſovereignty, relinquiſhed? No; then, as now, they were treated as preſumptuous and ridiculous. Indeed, the principle of abſolute, unconditional ſupremacy, was ſo fully eſtabliſhed in the reign of Charles the Second, that what by ſome people eſtabliſhes a right on our part, of partial taxation.

ation over the province of Pennſylvania, was at the time granted as a favour to Mr. Penn, who then had a ſtrong perſonal intereſt with the Sovereign. Penn was a ſenſible penetrating man. He knew the power to tax exiſted in the Sovereign; he therefore got the right transferred to the Parliament, leſt he or ſome of his ſucceſſors, ſhould ſuffer under a tax laid on at the will and diſcretion of the Sovereign for the time being. This right was firſt veſted in Parliament at the Revolution. It was not, to be ſure, a full Parliament, but a Convention, which laid a foundation for the privileges the nation now enjoys. From that time, the right has continued clearly in Parliament, in the three branches of the legiſlature conjunctively; ſo that taking the right of taxing, as derived from the ſovereignty through Parliament, in the manner here deſcribed, or conſidering it inherently exiſting in the whole legiſlature, as part of its very eſſence, the effect would be the ſame; for it ſtill comes to this, that the ſupreme power retains the ſovereignty over its ſeveral ſubordinate members, and of courſe among the other various powers which it poſſeſſes, is conſtitutionally entitled to exerciſe the right of taxation, whenever the common intereſt or exigences of the ſtate, may render the exerciſe of ſuch a right neceſſary.

The Earl *Temple*. My Lords, I have heard with the greateſt ſenſibility the very honourable teſtimony which has been given by the noble Earl [Earl Talbot] who ſpoke laſt, to the memory of one [Mr. Grenville] ſo deſervedly dear to me; and I think the Houſe is much obliged to his Lordſhip for the information he has given, and the new lights which he has thrown upon the queſtion of ſovereignty over America, in which the right of taxation is ſpecially included. Your Lordſhips have been ſo repeatedly perſecuted by debates on American queſtions, and I have ſo frequently given my opinion upon theſe queſtions, that I could moſt willingly have ſpared you this trouble; but with a heart feeling as warmly as mine does for the honour and intereſt of my country, and accuſtomed to view her in the higheſt point of glory, I cannot bear the thought of being ſo much as ſuſpected to be an indolent or indifferent ſpectator of her unexampled diſtreſs; nor can I ſuffer my opinions, in ſo arduous and delicate a ſituation, to be collected from the ſentiments expreſſed by any man, or ſet of men, whatſoever. I deſire to ſtand or fall in your Lordſhips opinion, and that of my country, by thoſe I deliver myſelf. I am ſtill clear, my Lords, as to the right this country has to exerciſe its ſovereignty over America by taxation. I had no hand in paſſing the

the ſtamp act, in the declaratory bill, in the bill laying duties upon tea and other commodities, in the partial repeal of that act, nor yet in the inſanity of ſending the tea to America without repealing the duty. From theſe and other cauſes, together with the imbecility of adminiſtration, this country is reduced into a ſituation ſo deplorable, that the wiſeſt and honeſteſt man in the kingdom can propoſe nothing that promiſes an happy and honourable iſſue. I feel that I ſpeak in fetters; I therefore will not preſs arguments on either ſide to their full extent. The next eaſterly wind will carry to America what ſhall fall from any, and from every Lord in the Houſe. I do not wiſh that the nakedneſs of my country and its weakneſs, ſhould ſtand confirmed by the authority and ſanction of teſtimonies given here. It is a time to act, and not to talk. Much is to be done, and little ſaid. The die of war is caſt, the ſword is drawn, and the ſcabbard thrown away. With great reſpect to your Lordſhips, wiſe as you are, and no doubt the great hereditary council of the king and kingdom, yet allow me to ſay, you are not enabled to decide upon matters of ſuch tranſcendent importance and difficulty, without having the fulleſt materials before you, which you moſt certainly have not. This is a queſtion for the miniſters to decide, who muſt be ſuppoſed to have the means of the moſt ample information: the execution will likewiſe lie with them. They have decided; and it is to be wiſhed that they have at laſt ſome well-conſidered plan; not only taking into pay all the troops that can at any rate be got, but alſo how they can be ſupported, ſupplied, and enabled to act with effect; in ſhort, a plan conſiſting of a great variety of efficient parts. If I had the honour of being in the King's council, (which, thank God, I have not) I ſhould expect the fulleſt information before I could decide; but decide I would, and abide by the deciſion. Retired, however, as I now am, and uninformed, I have not preſumption enough to give an opinion, nor do I hold myſelf ſpecially called upon to do it. My country is, indeed, reduced to a deplorable ſituation. We are driven between Scylla and Charybdis, and it will be tranſcendently difficult to ſteer the veſſel of the ſtate into a ſafe port. I muſt be allowed freely to confeſs, that I have not a good opinion of the King's ſervants. Paſt experience will not juſtify confidence; I cannot, therefore, anſwer to myſelf, or to my country, the truſting ſuch men, with the expenditure of ten millions; and laying the foundation of laviſhing many more, our laſt ſtake; *thereby* accelerating that bankruptcy, which ſooner or *later, I fear, by* adopting either meaſure, is become inevitable.

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Nor am I, on the other hand, ſo friendly to them, as by declaring our utter inability to reduce America, to furniſh them with a golden bridge for concluding an ignominious peace, on any the moſt ruinous and diſgraceful terms. I cannot conſent to throw this once great and glorious country at the feet of America; and there humbly implore ſuch peace as ſhe, in her generoſity and magnanimity, ſhall condeſcend to grant us. I am not yet made to the idea of hanging out a white flag of ſurrender. To thoſe who lament the preſent moſt melancholy ſtate of the Colonies, once ſo proſperous and flouriſhing, beyond the example of any others known in the annals of time, I cannot help obſerving, that I rejoice in the teſtimony, becauſe it does honour to the government of England, under whoſe care and influence they had proſpered ſo wonderfully. I do verily believe, that till the late troubles, they had infinitely leſs to complain of than the mother country herſelf; and that, ſeparated as they are by the vaſt Atlantic, it was not in the nature of things, that there muſt not be much to complain of, though not ſufficient to juſtify their ingratitude to the parent ſtate. I cannot blame a determination to make peace, ſword in hand; the ſooner it can be had upon reaſonable, ſafe, and honourable terms, the better for both countries. I never did declare, whether I thought it was conſiſtent with ſound policy to impoſe any tax upon America, and it will hardly be expected that I ſhould decide it now. I have heard it called an unjuſt war; I know not who in this Houſe have a right to call it ſo; not thoſe who voted for the declaratory act; thoſe only who denied our right of taxation, and how very few were they?* Negotiations of ſuch importance and delicacy cannot be tranſacted with too much ſecreſy. I cannot, I own, approve of recalling your troops, and publiſhing the terms to which you will yield, till there is reaſon to be pretty well aſſured they, or ſomething near thereunto, will be accepted. Infinite ſagacity and diſcretion are neceſſary to the attainment of what all alike, I am perſuaded, muſt eagerly wiſh. When the happy and favourable moment for conciliation ſhall arrive, I hope the miniſters will ſeize it, and I ſincerely wiſh them ſucceſs. At leaſt at ſuch a criſis, I will not hang upon the wheels of government, and thereby render what is already but too difficult, the more impracticable. [His Lordſhip did not vote.]

* Only five.

The Lord Viſcount *Townſhend*. Having at firſt entertained doubts relative to the claims of this country over America, I gave the ſubject for ſome time all the attention in my power. I conſidered the ſeveral charters. I examined the relation both countries ſtood in towards each other. I looked back to the infant as well as the more mature ſtate of the Colonies; and was at length convinced that America was bound by every rule of juſtice, and every tie of gratitude and political obligation, to contribute towards the common ſupport; and conſequently that America, from the beginning, had been the aggreſſor. But, my Lords, though the right of Great Britain to controul every part of the dominions of the crown, were to be queſtioned; though the charters were binding and valid, to the extent contended; ſtill the ſtate of things is ſuch, as renders it impoſſible to look back to the cauſes of this war, ſo as to anſwer any wiſe or ſalutary purpoſe. The juſtice of the cauſe is loſt in the din of war. The noble Earl in the blue ribbon, [Earl Temple] has told you very juſtly, that it is now become a ſtruggle for power; the die is caſt, and the only point which now remains to be determined, is in what manner the war can be moſt effectually proſecuted, and ſpeedily finiſhed, in order to procure that unconditional ſubmiſſion, which has been ſo ably ſtated by the noble Earl with the white ſtaff [Earl Talbot]. I know of no method ſo probable to inſure ſucceſs to our operations, as that now adopted. By it, we procure an immediate ſupply of men. Men trained to the uſe of arms, and of courſe fit for immediate ſervice. And I have no reaſon to doubt, that the meaſures now purſuing will put an end to the war, in the courſe of a ſingle campaign. This will operate doubly, in procuring the great objects we have in view: it will at once put an end to the calamities of war, and ſave an immenſe expence to the nation. A noble Earl [Lord Effingham] has appealed to me, in relation to the preſent ſtate, condition, and diſpoſition of Ireland: to which I can only anſwer, if any diſturbances ſhould break out in that kingdom, they muſt be ſuppreſſed. I do not believe they will; nor have I any reaſon to think ſuch an event at all probable. His Lordſhip has ſtated his apprehenſions of a French or Spaniſh invaſion. That too, I think equally improbable. France will be cautious of making any attempt of that kind, as long as ſhe remembers the defeat and deſtruction of the armament ſent there under Thurot, during the late war. But ſuppoſing that the noble Earl's fears were well founded,

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in my opinion, it would be an additional motive for our puſhing on the war with vigour and effect; in ſhort, to induce us to terminate it by the moſt powerful and deciſive operations; for if it ſhould be permitted to linger beyond the preſent campaign, we will have a right to expect the interference of ſome foreign power, who may probably avail itſelf of our domeſtic troubles, and civil diſtractions. The noble Duke who made the motion has ſaid, that foreigners were attempted to be forced on Ireland, and that it has been ſtripped of its national military eſtabliſhment. As to the laſt, if it be a fault, it cannot be charged on the miniſtry of this country. It was an act of their own Parliament; and if his Majeſty had not bound himſelf by his royal promiſe, there was nothing to prevent him from ſending the whole, or any part of the military force of that kingdom, to what part of the empire he pleaſed, if the exigences of affairs, or the operations of war, ſhould make it neceſſary. In reſpect to foreigners, the very ſtate of Ireland, as repreſented by the noble Duke, would be a ſufficient reaſon for his Majeſty to ſend a body of foreigners into that kingdom for its defence, without adviſing with his Parliament there; for I believe the noble Duke will hardly contend, that the King, with the advice of his Parliament here, or, on an emergency, previous to ſuch an advance, may not ſend a body of troops into any part of the dominions of the Britiſh crown, for its defence and protection.

The Duke of *Grafton*. The noble Duke who made the motion has ſtated the whole of the buſineſs of this day in ſo accurate a manner, with ſo much preciſion, and ſo judiciouſly pointed to the ſeveral leading points moſt deſerving your Lordſhips' attention, as to leave very little for me to add. Indeed, as to the matter immediately under conſideration, his Grace has totally precluded me. I cannot, however, ſit down without expreſſing my general ſentiments on this very momentous and important motion. From the firſt beginning of the preſent troubles I ſedulouſly endeavoured to ſatisfy myſelf of the true ground and nature of the diſpute, to examine the reſpective pretenſions of the parties, to procure the beſt lights the nature of the controverſy afforded, and to form my opinion without predilection or partiality. The effect of this conduct and thoſe reſearches was, that I plainly ſaw the people of America, inſtead of being protected in their rights, and ſecured in their property, would be left nothing which they could call their own, becauſe no line could

be drawn, no boundary could be ſet up, to limit the extent of the claim. You could not ſay that ſupremacy ſhall exiſt for ſuch and ſuch purpoſes, and ſhall be reſtrained in its exerciſe in ſuch and ſuch caſes; becauſe the very inſtant you ſet limits to its right of taxation, you would annihilate the principle on which that right is founded, and would conſequently leave the queſtion as open and decided as ever Taking it in the other light, that unconditional ſupremacy, in the mode and extent laid down by the noble Earl with the white ſtaff, was of the very eſſence of government, ſimilar difficulties, though ariſing from a different cauſe, preſented themſelves to my view; I mean the expediency of coercing America, and the impracticability of carrying coercing meaſures into effectual execution. I perceived that great allowances were to be made for a people who had been, as they thought, in the exerciſe and poſſeſſion of certain ſpecific defined rights for more than a century. I was convinced of the cruelty and bad policy of wreſting thoſe rights from them wantonly, and without any apparent cauſe. I evidently perceived the wildneſs and impracticability of the attempt, and the inſurmountable difficulties which ſtood in the way of a project ſo big with folly and injuſtice. But let me go one ſtep further, and ſuppoſe that the expediency and practicability were equal to the preſumed juſtice of the cauſe, ought we not to look to our own abilities, to our reſources, and compare the inconveniencies which muſt reſult from theſe meaſures with the advantages we propoſe to obtain? I am tolerably acquainted with the finances of this country, and I do moſt ſolemnly aſſure your Lordſhips, that I do not know a ſingle tax which it is the power of the moſt fruitful invention to deviſe or conceive, that would encreaſe the receipt at the Exchequer. Every tax that can poſſibly be thought of will interfere with ſome other already in being. The nation is loaded to the full extent of its abilities; and what are you going to do? You are entering into a war, the ſucceſs of which is problematical at leaſt, if not improbable. To carry on this war, new taxes will be neceſſary; and, having no ſecurity to give, the conſequence muſt be, that you will be obliged to pledge the old funds, contrary to public faith and the ſecurity of the public creditors, or, you will be compelled to contract new debts; which, if the war ſhould continue for any time, national credit will be ruined, and the kingdom be undone. This leads me to a conſideration of the firſt importance; it is the general inatten-

inattention and indifference to the intereſts of the nation, which prevail upon thoſe to whom they are entruſted. A moſt alarming profligacy of manners, and unbounded love of pleaſure and diſſipation, have taken poſſeſſion of almoſt all ranks and degrees of people. Miniſters are truſted indiſcriminately; Parliament has ſurrendered or abandoned its right of controul, and all the great concerns of the nation are truſted to chance, or to men by no means fitted for the arduous taſk of government. How do you think, my Lords, this will terminate? When the people find themſelves borne down under the preſſure of taxes, which they will be no longer able to pay; when public credit is no more; when public bankruptcy ſtares them in the face; when, in conſequence of ſuch a ſtate of things, univerſal ruin and deſpair ſpread themſelves through every part of this iſland? I will tell you, my Lords: the people, no longer able to endure ſuch calamities, and expecting no redreſs, where only it can be legally or conſtitutionally ſought, will ſeek relief in the means which God and Nature has pointed out. They will forbear to look up to Parliament, becauſe Parliament has betrayed them, has been deaf to their entreaties, and inattentive to their intereſts. It may be anſwered, that the preſent meaſures are the meaſures of the people, that they are approved of by a great majority of the nation, and that they have, in a variety of inſtances, and through a variety of channels, expreſſed the moſt hearty and zealous approbation. I deny the fact; but though I ſhould allow the truths, they are very far from combating any thing I have now aſſerted. If the people have been miſled, or lulled into a deceitful ſecurity, it proves my argument on the ground I have taken it up. It is not on the wiſdom and ſoundneſs of the meaſures, but on their fallacy and evil tendency, that I draw the preſent deductions. Beſides, addreſſes, and the various means employed by men in power to obtain the public ſanction and approbation, will never paſs with me for a proof of their being the real ſentiments of thoſe to whom they are imputed; for at no time ſince the firſt eſtabliſhment of the monarchy did this teſt of public opinion manifeſt itſelf more than during the greater part of the reign of James the Second. Addreſſes, congratulations, engagements to ſupport him with their lives and fortunes, poured in from every quarter; yet that infatuated monarch fatally diſcovered, in the hour of trial, that they were but the mere effects of miniſterial art and court adulation. On the whole,

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my Lords, conſidering this great queſtion in all its different points of view, and purſuing it in all its conſequences, I can perceive nothing but inevitable ruin. I contemplate it with the moſt pungent pain and anxiety; I turn my face from it with horror. Theſe have been my ſentiments from the very beginning, and I have uniformly acted conformably thereto. I have argued, prayed, and implored that the wild, ruinous, and deſtructive project might be laid aſide. I do now beſeech your Lordſhips, for the laſt time, to beſtow ſome further conſideration on the ſubject. The die is not yet irretrievably caſt; the ſword is drawn, but it may yet be ſheathed. The propoſition now made to you by the noble Duke may open a field for peace and reconciliation. This opportunity once loſt, I fear, can never again be recovered. I would beg to recall to your Lordſhips' recollection what fell from me in the courſe of the laſt year, when in another ſituation, (where I unhappily ſtood ſingle in opinion) that I promiſed to ſubmit a plan for compoſing the differences now ſubſiſting between Great Britain and America to your conſideration. Whatever has been urged by the noble Lord in the blue ribbon to the contrary, I am convinced it is not yet too late, and that all the miſeries and calamities which now threaten the nation may yet be averted, if we will only, without diſtinction of party, undertake the performance of the arduous taſk with willing hearts and proper diſpoſitions As to the treaties which make more particularly the ſubject of this day's debate, they have been ſo amply commented on, and fully explained by the noble mover, that I ſhould have hardly troubled your Lordſhips, did not I think it my duty, as applying directly to the manner in which this buſineſs of foreign treaties has been conducted on the part of adminiſtration, to expreſs my utmoſt aſtoniſhment at the language held by a noble Lord high in office, in whoſe department, as Secretary of State, this negociation muſt of courſe have been tranſacted. The noble Lord riſes to declare his ignorance, whether or not a commander in chief, appointed by his Majeſty, or the commander of thoſe foreign mercenaries, ſhould have the ſupreme command? Did his Lordſhip take upon him to negociate this treaty, without any one official requiſite to conduct and conclude it? or, has he firſt made the treaty, and after it is finally concluded, and made binding on the nation, does he come into this Houſe totally ignorant whether he acted right or wrong, to receive inſtructions from ſuch of your Lordſhips as are converſant in military affairs,

to

to know whether the whole of the Britiſh dominion in America is, or is not, to be under the abſolute command of a foreign mercenary, at the head of 12,000 hirelings? But ſuppoſing his Lordſhip ſhould tell me, that the ſupreme command is veſted in the commander in chief, though he be a junior officer, will he aſſure me, that the matter has been ſo underſtood by the Landgrave of Heſſe, or that his general is apprized of it? Or, laſtly, will his Lordſhip inform me, whether ſufficient proviſion has been made in caſe of death, or any other accident, to ſupply the vacancy with a ſucceſſion of other officers, who may be eventually called to the command, by commiſſion granted for the purpoſe; and that the prince and his general have been acquainted with this eventual arrangement, and have acquieſced in it? I think it proper, before I ſit down, to allude to one circumſtance in which I took a part, but in which I was moſt egregiouſly deceived; I mean the vote I gave reſpecting the Maſſachuſet's Bay charter bill. To induce me to give that vote, I was informed, that the alteration of the charter was at the expreſs deſire of the merchants, and a great majority of the people of property and conſequence inhabiting that province. I have ſince diſcovered that I was deceived; for that at the time, as well as ſince, the very contrary was the fact. It has been indeed the uniform practice, ſince the commencement of this buſineſs, to give falſe information, or proceed on none. I have therefore only to declare, that I would never have given my ſanction to that law, if I had not been led into error by a falſe ſtate of the matter; and though I unhappily fell into the ſnare laid for me, I am now free to declare, that the law for altering the charter of Maſſachuſet's Bay was, in every reſpect, oppreſſive, impolitic, and unconſtitutional; and if coupled with the claim of taxation, I am fully juſtified in maintaining, that as one leaves the ſubject no property, the other deprives him of every natural and political right; and that they are both equally deſtructive of the inalienable privileges of an Engliſhman, and the natural rights to which all mankind are entitled, if not ſtripped of them by fraud, force, or injuſtice.

The Earl of *Suffolk*. I preſume the noble Duke in the blue ribbon miſunderſtood what I ſaid, for I do not preſume his Grace had any intention of miſrepreſenting my words. I did not ſay or mean that I had any doubt whether the commander in chief, though a junior officer, had a right to command

command the Heſſian general. I poſitively and unconditionally aſſerted he had, and only referred to the noble Lords preſent, converſant in military affairs, in proof of that aſſertion. As to the other point the noble Duke alluded to, the ſame rule which prevails in reſpect of the commander in chief will, of courſe, take place in the perſon who may be appointed, or happen to ſucceed him.

The Earl of *Sandwich*. I did not intend to trouble your Lordſhips on the preſent occaſion, had not I been particularly called on by the noble Duke who made the motion, and to ſet another noble Duke [Duke of Mancheſter] right reſpecting ſome points on which he ſeems to be miſinformed. My noble relation has informed your Lordſhips, that the town of Norfolk, in Virginia, has been burnt and deſtroyed, and has accompanied his narrative with ſeveral exaggerated circumſtances attending that affair. I will tell the noble Duke how the matter *really* happened. One of our ſhips of war, being in great diſtreſs for water, ſailed to Norfolk, in order to procure it, and applied to the inhabitants, who, inſtead of complying with the common dictates of humanity, fired on the flag of truce, and killed or wounded two or three of our men. This occaſioned what afterwards happened, and cauſed the town to be burnt. I do not believe it is *yet* burnt. The inhabitants of Norfolk were ſo cruel and barbarous, that the whole crew muſt have periſhed for want of freſh water, had it not been for the relief they procured by the diſtillation of ſalt water. It was not the man of war's men that burnt Norfolk; it was the inhabitants themſelves. I do not know that it is yet burnt. The Norfolk people ſet fire to the town; that is, the fire from the man of war ſet fire to part of it, and the inhabitants burnt the reſt. The noble Duke who made the motion has entertained your Lordſhips a great while relative to the appointing and ſuperſeding of officers. His Grace has done me the honour to advert to me frequently in the courſe of his obſervations. I will tell the noble Duke, that he is both miſtaken in his facts and conjectures. Admiral Graves was not diſmiſſed nor recalled; nor was there the leaſt objection to his conduct as an officer; on the contrary, his Majeſty, to ſhew the good opinion he entertains of his ſervices, has appointed him a vice-admiral. As to Admiral Shuldham being ſuperſeded in the ſupreme command, he never imagined or thought that he was to command in chief. He only ſucceeded Admiral Graves, and as the ſervice was to be extended and carried

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on upon a larger ſcale, it became neceſſary that more admirals than one ſhould be employed; not that I know that Admiral Shuldham means to remain on the American ſtation. I aſſure the noble Duke, that the appointment of Lord Howe did not originate with me, though I think him a very able and deſerving officer; I was not, however, *over-ruled* in the cabinet; for, underſtanding that his Lordſhip *wiſhed* for the command, I was *happy* in having an opportunity of gratifying his deſires, and furthering the appointment of ſo able and deſerving an officer. The noble Duke ſays, that the ſervants of the Crown, who ſupport the meaſures now purſuing againſt America, ſecretly diſapprove of them, and expreſs their diſapprobation of them in private company. I do not pretend to ſay what company the noble Duke keeps, who ſo confidentially impart their opinions to him; but this I will venture to affirm, that I converſe both publicly and privately with them all; and yet I never heard one of them expreſs the leaſt diſapprobation whatever of the preſent meaſures. The noble Duke ſays, that though we have ſhips, we have not men ſufficient to man them. In this the noble Duke is equally miſtaken; for out of the whole complement of able ſeamen neceſſary for the twenty guardſhips, there is only five hundred wanting; and I will add another piece of intelligence, no leſs fatal to another argument made uſe of by his Grace, which is, that ſo far from the men being averſe to the ſervice, this very deficiency in the complement of the guardſhips has ariſen from a moſt uncommon alacrity in the men to ſerve on the American ſtation, the greateſt part of thoſe who enter chuſing to ſerve in the fleet now deſtined for that country, in preference to ſtaying at home. On the whole, the five hundred men deficient of the ſtated complement aboard the guardſhips could be procured in a few days, which with the ordinary ſeamen and landmen would enable the twenty guardſhips, that are all of the line of battle, to proceed to ſea in the courſe of a week; and ſuppoſe any difficulty ſhould ariſe, we ſhould procure more than ſufficient at the ſhorteſt notice; ſo that taking it in either light, we are prepared for any ſudden event or emergency whatever.

The Lord Viſcount *Townſhend*. I believe the noble Duke's ſolicitude, relative to whom the command would devolve on, in caſe of the death of the commander in chief, is totally unneceſſary, as I take it the next ſenior officer would ſucceed of courſe. I remember this was the caſe during the late war in America. Firſt a noble Lord, a member of this Houſe

Houſe [Lord Loudon] had the chief command; afterwards General Abercromby; and though Colonel Stanwix was the next ſenior officer when Sir Jeffery Amherſt was appointed commander in chief, the ſupreme command immediately veſted in Sir Jeffery as a matter of courſe.

The Lord Wycombe [Earl of *Shelburne.*] An inſinuation, my Lords, has been thrown out, in order to give a ſanction to the preſent meaſures, that a certain Earl [Chatham] whom I do not this day ſee in his place, has changed his former opinions reſpecting them; but I will venture to affirm, without any direct information on that head, that it is equally groundleſs and ill founded. I am ſure I can anſwer ſo far as to ſay, that in the ſeveral converſations he has done me the honour to hold with me on the ſubject, nothing leading, or even tending that way, has ever eſcaped him: beſides, his motion, and the conſequent ſtep taken by his Lordſhip, which remain on your Lordſhips' journals, put the matter beyond doubt or uncertainty. His plan, ſince the firſt commencement of this buſineſs, has been conciliation, *not* coercion. So much has been already ſaid on the ſubject of the treaties, now on your Lordſhips' table, that I ſhall trouble you very little, further than to expreſs my aſtoniſhment at a language which has been held this day, in relation to the employment of foreigners. It creates double wonder, when coming from the ſupporters of the preſent meaſures, againſt whoſe profeſſed ſyſtem of policy it militates in the moſt marked contradiction. The doctrine is ſhortly this; when you have any extenſive operations of war to carry on, keep your own men at home employed in our manufactures and agriculture, and *truſt* the *defence* of the empire, and commit the proſecution of your moſt eſſential intereſts to foreigners. Your country is ſmall and inſignificant, in point of numbers; the few hands you have are wanting at home; and ſhould you employ them in war, your country would be ruined; the plow and loom muſt inſtantly ſtand ſtill Is this, my Lords, a language to be *endured?* Can this doctrine be ſeriouſly maintained in this Houſe without ſubjecting its authors to ridicule and deriſion? Were thoſe the ſentiments which prevailed during the late war, when we had at one time no leſs than 350,000 natives in actual ſervice; and when the whole number we employed amounted to no leſs than 418,000 men? Will any man ſay that our manufactures *ſtood ſtill* for *want of hands*, when our imports encreaſed full two millions annually, and when both our exports and imports exceeded any thing known in former

former times? Could we thirteen years ago ſpare 350,000 men for carrying on the operations of war, and carry on our manufactures to an extent never before known; and ſhall it be this day *gravely* contended, that we cannot raiſe a fifth part of the number without ruining our manufactures, which conſideration obliges us to apply for aſſiſtance to two paltry German ſtates, as the only means of procuring our political ſalvation? Such arguments would ſurprize me, coming from any quarter; but much more ſo, from a ſet of men, who have uniformly condemned all intercourſe with the continent, all German ſubſidies and German connections. I remember a noble Duke, now no more, who I looked upon to be a very able man, and a noble Earl, both of whom have been mentioned in the courſe of this debate [Duke of Bedford and Lord Bute] during the late war, and at the concluſion of the late peace, held it as a point not to be departed from, that this country could ſubſiſt without any alliance to the continent. I know that a noble Earl [Lord Chatham] who conducted that war, was of the ſame opinion; and juſtified his conduct by frequently declaring in private and public, "that he did not bring us to the continent; that he found us there." We all know, that this ſyſtem at laſt prevailed; and that it has been the uniform politics of the preſent reign to adhere to that ſyſtem. Shall we now be told, by the ſame men, acting up to the ſame rule, for more than fourteen years, that the ſyſtem is a bad one; that alliances on the continent muſt be formed; that we have not men ſufficient in the nation to defend and protect it; and that if we had, we cannot ſpare them without ruin to our manufactures? His Lordſhip then turned his attention to the new levies, ſhewed how the principle of keeping up old corps eſtabliſhed at the peace, had been departed from, by raiſing new corps; and how Highlanders had been *recruited* in *London*, and ſeveral parts of England, to fill up General Frazer's two battalions. He ſpoke of the ill treatment and reſentments of the King of Pruſſia, and the Emperor; and of our not having a ſingle ally on the continent, of the leaſt conſequence.

The Lord *Lyttleton*. My ſentiments on the preſent ſubject are pretty well known. I ſhall only obſerve now, that lenient meaſures have had no other effect than to produce inſult after inſult; that the more we conceded, the higher America has riſen in her demands; and the more inſolent ſhe

ſhe has grown. It is for this reaſon that I am now for the moſt effective and deciſive meaſures; and am of opinion, that no alternative is left us, but to relinquiſh America for ever, or finally determine to compel her to acknowledge the legiſlative ſupremacy of this country. I do not pretend to decide, in the preſent ſituation of both countries, how far it may be expedient to inſiſt on taxes, for the purpoſe of raiſing a revenue; not but it is evident, we are fully competent to demand them, and able to compel their payment. However it is plain, when they return to a proper ſtate of obedience, that the right is with us, and that we may exerciſe it according to circumſtances, and local convenience. In the event of our prevailing in this conteſt, it is the principle of an unconditional ſubmiſſion I would be for maintaining; not that I would be for puſhing the conſequences of this doctrine to its full extent. I think the right once fully eſtabliſhed and acknowledged, Great Britain ought by all means to ſecure to the people of that country, thoſe privileges and immunities to which every native ſubject of this free government is confeſſedly entitled.

The Lord *Camden*. Some alluſions have been made in this debate to a fact, which has been miſrepreſented. It has been ſuppoſed, that the noble Duke in the blue ribbon, [Duke of Grafton] and myſelf, both occupying high offices in adminiſtration at the time the duties were laid on in 1767, approved of the meaſure. I confeſs, as mere matter of ſuppoſition, his conjecture is plauſibly ſupported; but the fact, I do aſſure his Lordſhip, was entirely otherwiſe. I never did, nor never will, approve or give my conſent to the raiſing any taxes, in any form, on the people of America, for the purpoſe of raiſing a revenue, to be under the diſpoſal of the Britiſh Parliament. As for the treaties now on your Lordſhips' table, and the propoſed effect of the preſent motion, I ſhall beg your Lordſhips' indulgence for a few words. If I underſtand them right, they contain an agreement with the Landgrave of Heſſe, Duke of Brunſwick, and Prince of Hanau, for a certain number of troops for certain ſpecific ſums of money, accompanied by ſubſequent conditions of a double ſubſidy to be paid, in caſe the war ſhould be terminated in a ſhorter time than that uſually fixed for the exiſtence of ſubſidiary treaties. To give this bargain the appearance of what it really is not, the whole is ſtuffed up with pompous expreſſions of alliance, founded in

in reciprocal ſupport and common intereſt. as if theſe petty ſtates were really concerned in the event of the preſent conteſt between this country and America Now, my Lords, I would appeal to any of your Lordſhips, if the whole of this tranſaction be not a compound of the moſt ſolemn mockery, fallacy, and groſs impoſition, that was ever attempted to be put on a Houſe of Parliament. Is there one of your Lordſhips, who does not perceive moſt clearly, that the whole is a mere mercenary bargain for the hire of troops on one ſide, and the ſale of human blood on the other; and that the devoted wretches thus purchaſed for ſlaughter, are mere mercenaries, in the worſt ſenſe of the word. This point once granted, look then on the preſent treaties in their naked and true light. Conſider ſeriouſly the conſequences ſuch a conduct on our part may probably be productive of. We not only pay dearer for theſe hirelings, than was ever known on any former occaſion, but inſtead of availing ourſelves of the advantages we might derive from treating with their reſpective ſovereigns, hiring out their troops in the manner now alluded to, we have entered into treaties of alliance offenſive and defenſive: we have, in fact, pledged the faith of the nation, to all the eventual conſequences of a continental war. But, my Lords, even this meaſure, hazardous and impolitic as it is, is not what preſſes moſt forcibly on my mind, in the conduct of this wanton, cruel, and diabolical war; for if the arguments be true that have been urged by ſeveral of your Lordſhips this day in debate, they amount fairly to this; that men are *not* to be had in this country, ſufficient to give efficacy to the neceſſary powers of the ſtate, nor aſſert the rights of this legiſlature; and that, conſequently, the preſent treaties, however exceptionable, are the mere creatures of neceſſity. I queſtion much the truth of this argument; but ſuppoſing it to be a juſt one, does it not fairly prove, that the ſalvation of this empire depends upon foreign aſſiſtance; and that all our boaſted power, wealth, and every advantage derived either from our ſituation or form of government, are held under that precarious tenure. In ſhort, that we can enjoy no one bleſſing of external ſtrength, or domeſtic happineſs, longer than our worthy mercenary allies and friends on the continent think proper to permit. Now, for my part, I always was of a different opinion; for ſhould the time ever arrive, in which our exiſtence as a nation depended on the aſſiſtance of foreign hirelings, from that inſtant I ſhould deem our conſequence as a ſovereign ſtate, and our liberties as a free people, no more. The hiſtory of all ages and

nations prove the fatal effects of calling in foreign auxiliaries, but more particularly mere mercenaries, to fight their battles; and my memory hardly furniſhes me with a ſingle inſtance of conqueſt over any great ſtate or empire, in which the conquerors were not firſt introduced into the country as friends and allies. This general truth, my Lords, I allow does not directly apply to the preſent treaties now before you; but the principle, were the national imbecility ſuch as your Lordſhips heard it deſcribed to be this day really juſt, ought to create cauſe of great and ſerious alarm to every one of your Lordſhips. I cannot better expreſs my diſapprobation of employing foreigners, particularly to fight our domeſtic quarrels, than by quoting the opinion of that great man, Sir Walter Raleigh, in his hiſtory of the world. He ſays, "that they are ſeditious, unfaithful, diſobedient devourers and deſtroyers of all places and countries, whither they are drawn, as being held by no other bond than their own commodity. Yea, that which is moſt fearful among ſuch hirelings is, that they have often, and in time of greateſt extremity, not only refuſed to fight in the defence of thoſe who have entertained them, but revolted to the contrary part, to the utter ruin of thoſe princes and ſtates who have truſted them."

My Lords, great ſtreſs hath been laid, in the courſe of this debate, on the comparative riches and ſtrength of Great Britain and America, from which a concluſion has been drawn in our favour, and a conſequence from that concluſion, that we muſt in the end prove victorious. I deny the fact, the concluſion, and the conſequence raiſed upon it. That we poſſeſs more of the precious metals than the people of America, I will readily grant; but that the materials for decorating palaces, or that adminiſter to the luxuries or elegancies of life, are ſo much real riches; or that they conſtitute the real and efficient ſtrength of a nation, is a doctrine I can never ſubſcribe to. Particularly, when you have a people to contend with, who prefer real liberty to the empty ſhadow, and who deſpiſe thoſe baubles and trinkets, when compared with the ſubſtantial and rational benefits of civil ſociety, and domeſtic happineſs. The native produce and induſtry of a country, I am bold to affirm, are what conſtitute its real opulence. The people of America have always been in poſſeſſion of one, and the preſent inhuman and oppreſſive meaſures you have adopted, will neceſſarily teach them the other. The policy of former times was to improve the native advantages of the people of America to a *twofold purpoſe*; to encourage them to the raiſing raw materials

terials for our own manufactures, or as objects of foreign commerce; and to render them as dependent as poſſible on this country, for all the wrought conveniencies of life. This was the inexhauſtible mine, from which this country was wont to draw her reſources. The immenſe profits derived from ſuch a commercial intercourſe, were the *taxes* we *drew* from that country; and thoſe only ever will be, the ſubſtantial, conſtitutional benefits which can or ought to be derived from the legiſlative authority claimed by this country. What will be the conſequence of this mad, bloody war? You will teach America induſtry and frugality. You will neceſſitate them to wear their own rough manufactures. You will create an emulation for excellence and improvement: and by ſhutting them out from your own ports, you will compel them to explore thoſe of foreign nations. In fine, you will point out to them the advantages of a foreign commerce, of a frugal habit of living, but above all, the ſweets of induſtry, directed to the eſtabliſhment of new manufactures, and the improvement of old ones.

I would recommend to your Lordſhips to ſeriouſly conſider the grounds of the preſent quarrel, and the object meant in the end to be attained by it. Has it not originated in taxation? and is it not now gravely aſſerted, that the tax is virtually relinquiſhed, but that a war of conqueſt, or an acknowledgment of an unconditional ſubmiſſion on their part, is the only alternative now left? What then is the true effect of this language, but that the preſent is a war of conqueſt? For the noble Earl with the white ſtaff [Lord Talbot] has told you, that this country ought never to recede, till America has conſented to an unconditional ſubmiſſion; and conſequently that our ſubjects in that country are to be reduced to a ſtate of abſolute ſlavery, or be for ever ſeparated and cut off from the dominion of the Britiſh empire.

But, my Lords, referring back to the old queſtion of taxation, for that I look upon to be the true and efficient ground of the preſent conteſt, what does that queſtion preſent to your Lordſhips' conſideration? Why, that in the courſe of the preſent campaign, you will have run in debt ten millions, which is more than you have been able to diſcharge in the courſe of a thirteen years peace; and if all your meaſures of conqueſt ſhould ſucceed, that you will probably, at the end of another year or two, be thirty millions worſe than when you began, and will be in the abſolute poſſeſſion of a ruined, deſolated country, which ſo far from being able to contribute to the diſcharge of your burdens, will become an additional one for a ſeries of years to

come. It has been urged, that none of thoſe conſequences will happen; that America, when ſhe perceives that we are ultimately determined, will ſubmit, and that of courſe our expences will ceaſe with the cauſe which gave them birth. I ſhould think there was ſomething in this argument, if conciliation, *not* conqueſt, was intended; if the claims of America were patiently heard, and maturely conſidered; but is there one of your Lordſhips who ſeriouſly believes, that thoſe people will ever conſent to lay down their arms, till vanquiſhed; if no terms of conciliation or accommodation are held out to them! The idea is abſurd and prepoſterous, and I am certain is not believed, or expected by thoſe who urge it. On the whole, my Lords, I am heartily for agreeing with the noble Duke's motion, becauſe it will afford time for adminiſtration to treat; it will give his Majeſty an opportunity of putting a ſtop to the further effuſion of human blood; it will ſtrengthen the hands of government, ſhould America refuſe ſuch terms as Britain many conſiſtently offer, and America reaſonably and ſecurely accept; and it will be the means of laying on foundations of ſtrength and ſecurity, the greatneſs, opulence, and perfect union of the Britiſh empire, whether conſidered as one body, or in reſpect of its ſeveral conſtituent parts.

The Lord Viſcount *Weymouth*. The noble Duke in the blue ribbon, and the noble Lord who ſpoke laſt, happened to be both in adminiſtration at the time the act was paſſed, which laid on the duties that were the original cauſe of all the preſent diſturbances. It is ſomewhat extraordinary that they ſhould now complain of their own acts, and come before your Lordſhips and the public to condemn meaſures which, for any thing that appears to the contrary, originated from themſelves, or at leaſt received their ſanction.

The Duke of *Grafton*. I confeſs I occupied a very high and reſponſible poſt in adminiſtration when the duties in 1767 were laid upon tea, paper, painters' colours and glaſs. I am, however, extremely well pleaſed to have an opportunity of explaining what yet has not been effectually cleared up. In that year, when the extraordinary expences incurred on account of America were laid before the Houſe of Commons, the Houſe roſe as one man almoſt, and inſiſted that that country ſhould contribute to the burdens brought on by the military eſtabliſhment there; and a motion was made for bringing in a bill for that purpoſe. I ſtrenuouſly oppoſed the meaſure, as big with the conſequences it has ſince unfortunately produced. I ſpoke to my friends upon the occaſion,

but

but they all united in one opinion that the tide was too ſtrong to expect to either ſtem or turn it, ſo as to prevent whatever might be offered in that ſhape from paſſing into a law. Finding that all my efforts would be vain, I was compelled to ſubmit, but was reſolved, as far as lay in my power, to prevent the effect; and while I gave way, to do it in ſuch a manner as would cauſe leaſt harm: I accordingly propoſed the tea duty as the moſt palatable; becauſe, though it anſwered the main purpoſe of thoſe with whom taxation was a favourite meaſure, it was doing America an immediate benefit; for I procured the ſhilling a pound duty to be taken off, and three-pence to be laid on it in lieu thereof; ſo that, in fact, it was nine-pence a pound ſaving to America. However, the attempt was received in America as I expected it would: it immediately cauſed diſturbances, and univerſal diſſatisfaction. In 1769, therefore, I moved in the cabinet for a repeal, and was out-voted (if I recollect right) by a majority of one. This, therefore, was the part I took in this fatal buſineſs. When the partial repeal was agreed to in council, I intreated and conjured my brethren in office to give up this paltry revenue; but, as I ſaid before, I was over-ruled.

The Lord *Camden*. For my part, I was not in council, or did not attend in the cabinet at the time this fatal meaſure was concerted; and as ſoon as I was apprized of the tendency of it, I expreſſed my hearty diſapprobation.

The Lord Viſcount *Weymouth*. The noble Duke ſays, he was out-voted in the cabinet, and that there are ſome noble Lords now preſent who took an active part on that occaſion. The noble Duke is very right; I was preſent, and am free to declare, that I was one of the members of the cabinet who gave my vote for having the tea duty retained, and am not aſhamed to own it. The noble Duke forgets there was no majority, or caſting voice; the numbers were equal. The noble Lord's apology is the moſt extraordinary that I ever heard: his Lordſhip ſays, he was not preſent at the time it happened to be debated in council. Will the noble Lord pretend to excuſe himſelf as a cabinet counſellor on that ground? or if he could, can he pretend to defend himſelf in giving his approbation and aſſent, and putting the queſtion in every ſucceſſive ſtage of the bill to a meaſure, ſitting on that woolſack as preſident of this auguſt aſſembly, which he has aſſerted in the courſe of this night's debate, will be the certain ruin and deſtruction of this country?

The Duke of Richmond replied to the obſervations made on his ſpeech; and the queſtion being put, there appeared for the motion, contents 32, non-contents 100.

THE PROTEST.

It was moved, That the following addreſs be preſented to his Majeſty, viz.

Moſt Gracious Sovereign,

WE, your Majeſty's moſt dutiful and loyal ſubjects, the Lords Spiritual and Temporal, in Parliament aſſembled, humbly beg leave to repreſent to your Majeſty, that it is with the utmoſt concern we have ſeen the treaties which your Majeſty, by the advice of your miniſters, has been pleaſed to enter into with their Serene Highneſſes the Duke of Brunſwick, the Landgrave of Heſſe Caſſel, and the Count of Hanau, and which your Majeſty has been graciouſly pleaſed to communicate to this Houſe.

We beg leave humbly to repreſent to your Majeſty, the ſenſe we entertain of the danger and diſgrace attending this inconſiderate meaſure, when it has been judged neceſſary in the firſt exertions of Great Britain to ſubjugate her colonies, to hire an army of foreign mercenaries, acknowledging to all Europe, that theſe kingdoms are unable, either from want of men, or diſinclination to this ſervice, to furniſh a competent number of natural-born ſubjects to make the firſt campaign: and it is a melancholy conſideration, that the drawing off the national troops (though feeble, for the unhappy purpoſe on which they are employed) will yet leave theſe kingdoms naked, and expoſed to the aſſault and invaſion of powerful neighbouring and foreign nations.

We further beg leave humbly to ſubmit to your Majeſty, that if the juſtice and equity of this unnatural war was not queſtioned by ſo large a part of your Majeſty's ſubjects, yet a reconciliation with the colonies, though attended with ſome conceſſions, would be more agreeable to ſound policy, than to intruſt the proſecution of hoſtilities to foreigners, in whom we cannot confide, and who, when they are at ſo great a diſtance from their own country, and ſuffering under the diſtreſſes of a war, wherein they have no intereſt or concern, with ſo many temptations to exchange vaſſalage for freedom, will be more likely to mutiny or deſert, than to unite faithfully and co-operate with your Majeſty's natural-born ſubjects.

We ought not to conceal from your Majeſty the anxiety we feel on the latitude of the articles in the ſeveral treaties, which ſtipulate the power in your Majeſty of employing theſe troops

troops in any part of Europe. Means are hereby provided for introducing a foreign army even into this realm; and we cannot ſo far confide in your Majeſty's miniſters, as to ſuppoſe they would be very ſcrupulous in adviſing ſuch a meaſure, ſince they have already introduced foreign troops into two of our ſtrongeſt fortreſſes, and have offered to bring four thouſand more foreigners into the kingdom of Ireland, without the conſent of a Britiſh Parliament.

That we have moreover juſt reaſon to apprehend, that when the colonies come to underſtand that Great Britain is forming alliances, and hiring foreign troops for their deſtruction, they may think they are well juſtified by the example, in endeavouring to avail themſelves of the like aſſiſtance; and that France, Spain, Pruſſia, or other powers of Europe, may conceive they have as good a right as Heſſe, Brunſwick, and Hanau, to interfere in our domeſtic quarrels. And if the flames of a war from theſe proceedings ſhould be kindled in Europe, which we fear is too probable, we reflect with horror upon the condition of this country, under circumſtances wherein ſhe may be called upon to reſiſt the formidable attack of our powerful enemies, which may require the exertion of our whole force, at a time when the ſtrength and flower of the nation is employed in fruitleſs expeditions on the other ſide of the world.

That the treaty, by ſtipulating not only to give the Landgrave of Heſſe Caſſel, in caſe of attack or diſturbance in the poſſeſſion of his territories, all the ſuccour which ſhall be in your Majeſty's power to give, but likewiſe to continue ſuch ſuccour until the Landgrave ſhall have obtained entire ſecurity, and a juſt indemnification, lays this kingdom under the neceſſity of taking part in every quarrel upon the continent, in which his Serene Highneſs may happen to be engaged, and that without any equivalent conſideration to make the contract reciprocal; as this iſland can expect no aſſiſtance from an inconſiderable ſovereignty in the heart of Germany, from which more troops are already drawn than ſhe is able to replace for her own defence, and whoſe revenues are not ſufficient to maintain even thoſe ſhe has lent without the aid of ſubſidy. We conceive, therefore, that this engagement of Great Britain to defend and indemnify, muſt be conſidered as part of the price ſhe is to pay for the hire of thoſe troops. If this article of charges (which cannot be eſtimated) be added to the enormous expences of levy money, charges of making good the loſſes of the ſeve-

ral corps, ordinary and extraordinary ſubſidies, and their continuation after the troops are returned to their reſpective countries, and can be of no uſe to Great Britain, we may ſay with truth that Great Britain never before entered into a treaty ſo expenſive, ſo unequal, ſo diſhonourable, and ſo dangerous in its conſequences.

We therefore humbly implore your Majeſty to give immediate orders for ſtopping the march of the Heſſian, Brunſwick, and Hanau troops, and for a ſuſpenſion of hoſtilities in America, in order to lay the foundation of a ſpeedy and permanent reconciliation between the great contending parts of this diſtracted empire.

It was moved to agree with the ſaid motion. Which being objected to, after long debate, the queſtion was put thereupon. It was reſolved in the negative.

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Diſſentient,

Abingdon.	Portland.
Ponſonby.	Effingham.
King.	Abergavenny.
Fitzwilliam.	Camden.
Archer.	Richmond.

March 6, 7, 8

Private buſineſs. Adjourned to the 11th.

March 11, 12, 13.

Private buſineſs.

March 14.

The Duke of *Grafton* My Lords, before I explain to your Lordſhips the intention of the preſent motion, and the grounds on which I propoſe to maintain it, I ſhall, with your Lordſhips' permiſſion, explain ſomething which paſſed in this Houſe the laſt day I had the honour to addreſs your Lordſhips, reſpecting my ſuppoſed conduct, relative to the tea act in the year 1769, when it was propoſed in the cabinet to procure a repeal of it, along with the other duties laid on in 1767. I am within your Lordſhips' recollection, that I then aſſerted, that when the matter was debated in council, I was over-ruled and out-voted, but was contradicted by a noble Viſcount [Lord Weymouth] whom I now ſee in his place. Having ſpoken from memory, though I was certain I was right, joined to the very late hour of the night,

night, when the matter alluded to was mentioned, I declined to anſwer the noble Viſcount, or to corroborate my firſt aſſertion, with any further facts or particulars. Being, however, uneaſy till I had enquired further into the circumſtances of that important tranſaction, I ſearched among my papers, and there found a note of it, ſent me by a noble Lord then at the head of the American department, [Lord Hillſborough] by which it appears, that the numbers in the cabinet were not equal, as the noble Viſcount aſſerted, but that I was over-ruled and out-voted by a majority on the propoſition of repealing that tax, which, as I then foreſaw, would be productive of the worſt conſequences; and which now is the occaſion of the preſent unhappy diſputes that threaten to overwhelm this country in ruin and deſtruction. I thought it my duty to ſubmit this true ſtate of that momentous buſineſs to your Lordſhips, leſt any of you ſhould think that I had either negligently aſſerted, or deſignedly miſrepreſented it. If the noble Viſcount ſhould differ from me on the fact, as I now have ſtated it, I wiſh it may be underſtood, that he will riſe immediately and contradict me, before I proceed further, or that his ſilence may be conſtrued into an acquieſcence; becauſe I would not wiſh to have your Lordſhips interrupted by any thing which relates immediately to myſelf, in the future courſe of the debate. As to the meaſure now propoſed to your Lordſhips, I truſt that you will perceive the neceſſity of adopting it; and that you will believe me, when I moſt ſolemnly and earneſtly aſſure you, that nothing but a thorough conviction on my part, that it, or ſome other meaſure of a ſimilar nature, is the only poſſible means now left of averting the impending deſtruction and ruin which ſeem ſuſpended over the heads of the people of this devoted unhappy country. It is evidently formed on the principles of humanity, equity, and ſound policy, and opens a door for reconciliation, and for ſettling the differences now ſubſiſting between both countries, on terms of laſting amity, founded in reciprocal affection, and cemented by mutual intereſt. It will be the means of ſheathing the ſword now drawn, perhaps never again to be returned to the ſcabbard, ſhould this motion be rejected, till a deluge of blood is ſpilt, and either Great Britain or America, or both, are brought into ſuch a ſtate as may inevitably produce their ſeparate or total deſtruction. I contemplate with horror, the conſequences of the bloody conflict, ſhould matters be puſhed to extremities; in the event

of

of ſo many thouſand men being drawn up againſt each other, when, whichever ſide victory may declare, all true friends of their country, be their political ſentiments what they may, will have the moſt juſt and melancholy cauſe of grief and mourning. I would therefore appeal to your Lordſhips' humanity, on this ſupremely critical and important occaſion; and implore your interference, for the purpoſe of averting ſuch dire calamities, and preventing the effuſion of human blood; particularly when your Lordſhips ſhall take the additional circumſtance into conſideration, that victory and the moſt complete ſucceſs on our part, will produce no other effect, than waſting and weakening our own ſtrength; and that the blood thus ſhed will not be that of your natural and dangerous enemies, but the blood of your fellow-ſubjects, of your brethren, of Britons, of a people united with you by every tie of fraternal affection, every motive of common intereſt, and every principle of common defence, protection, and ſupport.

In point of equity, my Lords, I believe, ſince the new doctrine of an *unconditional* ſubmiſſion has been broached by a noble Lord [Lord Germain] in another Houſe; (for I affirm, till he was called to office, it was never openly avowed or maintained in either Houſe of Parliament) your Lordſhips will be of opinion, that it would be but equitable to let the people of America know what are now the ſentiments of this country; becauſe, by knowing our *ultimatum*, they will then have it in their power to either agree to it, or to riſque the conſequences of reſiſtance. I remember, at the opening of this ſeſſion, a very different language was held. The idea of taxation was denied or modified. A noble Lord in the other Houſe, who preſides at the head of the national finances, diſclaimed any ſuch intention. A noble Lord in this Houſe, whom I now ſee in his place, [Lord Dartmouth] who then filled a reſponſible office in adminiſtration, and who, perhaps, for the reaſon I am now going to aſſign, was not thought ſo proper a perſon to carry the deſigns of government into execution, repeatedly aſſerted and aſſured this Houſe, that no intention was entertained by adminiſtration of "ſubduing America." I would appeal to your Lordſhips, if the new-adopted ſyſtem has not a moſt unfavourable appearance, an appearance full of miſchief, and big with that over-ruling ſecret influence, thoſe dark and dangerous deſigns, which every now and then betray themſelves to public view, and which create the juſteſt jealouſies and ſuſpicions in the breaſt of every man who is not deaf and

callous

callous to the feelings and intereſts of this devoted country. When I framed the motion [*See the motion, page 222.*] I avoided all ſpecifications, becauſe I meant it as a general reſolution, to be taken up and conſidered by your Lordſhips in a committee, in order, if you ſhould think proper or neceſſary, you might decide on particulars, agree upon ſome ſpecific terms, ſome *ultimatum* to be propoſed to the Colonies, or you might determine on ſome general reſolution to be communicated to the other Houſe of Parliament for their concurrence, as a baſis for conciliation or conceſſion. By this means America might know what ſhe had to depend on, and decide accordingly. You would remove that cauſe which ſhe aſſigns for her preſent want of confidence in general aſſurances, in *miniſterial* promiſes, in *looſe* and *undefined* claims, which every ſucceſſive adminiſtration have explained their *own way*, and ſcarcely any two of the members of the preſent ſeem to be agreed in. As the doctrine of unconditional ſubmiſſion, avowed by the noble Lord alluded to, as the ſame doctrine has been ſince repeated in this Houſe by perſons who, though not in reſponſible offices, are nearly connected with thoſe in power, another view I had in ſubmitting the preſent motion to your Lordſhips was, to induce miniſters to ſpeak out, to ſay fairly whether their long harangues on intended reconciliation and conciliation, their determinations to concede in ſome particulars, are all forgotten, or laid aſide, never again to be taken up; and whether they have any meaſures ſhort of unconditional ſubmiſſion to propoſe. Should they chuſe to be ſilent on this head, and, in conſequence thereof, reject this propoſition, I ſhall then underſtand them as perfectly and clearly as if they had ſpoke out. I ſhall then be fully convinced that unconditional ſubmiſſion is what they have ultimately in view; that the bloody conflict, I fear, long determined on, will follow; and that the preſent diſpute between both countries is finally to be decided by the force of arms. Before I conclude this head, I ſhould wiſh to be underſtood that I cannot pay the leaſt attention to any explanation, purporting that the objects purſued by adminiſtration have been the ſame from the beginning; that they are ſtill willing to ſheathe the ſword, and liſten to the terms of accommodation. Such a concluſion is abſurd, and impoſſible in the nature of things. The ſpeech, I allow, held out this idea; the propoſition called the conciliatory propoſition, framed by a noble Lord in the other Houſe, was, it is plain, ſhort of unconditional ſubmiſſion.

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The bill for interdicting all commerce with America, known by the name of the capture act, had a clauſe, towards the latter end of it, which correſponded with the intentions declared in the ſpeech. By this clauſe a power was veſted in the King to appoint commiſſioners to treat with the Colonies, to receive ſubmiſſions, and to grant pardons. I was not preſent at the time this bill was debated on the ſecond reading; but though the ſyſtem which appears now to govern adminiſtration was not then openly avowed, it is plain that the perſon [ſuppoſed to mean Lord Mansfield] who adviſed or framed this clauſe, and who, I preſume, has had the chief hand in directing and adviſing the preſent meaſures from their commencement, by his perſonal influence, though not called by his office to a participation of this ſpecies of power, had a view to that unconditional ſubmiſſion which is now contended for. I was in the country when this act firſt came to my hands, and, on comparing the King's ſpeech with the clauſe, I muſt own I was aſtoniſhed. What does the clauſe ſay? That commiſſioners are to be appointed, and that is all. What are they to do? To receive ſubmiſſions. Does it ſtate what conditions, or, indeed, provide for any condition at all? Have the commiſſioners the leaſt ſhadow of power, by this act, to make any conceſſion whatever? Not one; the alternative is reſiſtance, or unconditional ſubmiſſion; an eternal war and reſiſtance on one hand, till both or either party is deſtroyed, or, that America ſhall inſtantly diſarm, ſurrender, and ſubmit. On this ground, my Lords, I thought it proper to give an opportunity to your Lordſhips to effectuate his Majeſty's gracious intentions declared in his ſpeech; and the great oſtenſible object of the capture bill, which was to coerce America by deſtroying her trade, if ſhe obſtinately perſiſted not to accept or agree to ſuch terms of accommodation as the Britiſh Parliament, in conjunction with his Majeſty, might think moſt conducive to the ſecuring the claims of this country, the ſubordinate conſtitutional rights of America, and the future permanent happineſs and intereſts of both. It is ſolely to obtain thoſe very deſirable objects that I have this day troubled your Lordſhips. If your Lordſhips ſhould not think proper to propoſe any *ultimatum*, this motion will have this very ſalutary effect; it will furniſh America with an opportunity of preventing the preſent calamities, which they muſt in all events unavoidably feel, it will give them an opportunity of averting that cloud which hangs ſuſpended over their heads, and threatens them with deſtruction; it will be but

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a fair an equitable experiment, by way of warning; and if they ſhould either refuſe to offer any propoſition, or tender ſuch only as are inconſiſtent with the dignity and rights of the legiſlature, and to the intereſts of the empire at large, it will produce this other very important and beneficial conſequence; it will unite this country in ſupport of meaſures which are far from being univerſally approved, and vindicate the juſtice and honour of the nation, not only in the opinion of its own ſubjects, but in that of all Europe.

As to the policy of the preſent conflict, I ſhall ſay very little, having before ſo frequently expreſſed myſelf on the ſubject. But I think adminiſtration ſhould have the moſt full and unequivocal proofs of the diſpoſition of foreign powers before they blindly ruſhed into a civil war. I have been a conſiderable time converſant in matters of this kind. I know the ſtreſs that ought to be laid on the language uſually held by ambaſſadors. I know what credit ought to be given to the general aſſurances of foreign courts. I am convinced they are very little to be relied on, if not accompanied and ſtrengthened by confidential engagements, and a thorough knowledge of the ſtate and condition of thoſe countries from which we have moſt to dread; not from their pacific declarations ſo much as from their known inability to injure. The former may ſerve, nay, experience in all ages has proved too frequently, has ſerved, only to amuſe and deceive. The latter, therefore, in my opinion, can only promiſe that kind of ſecurity which a wiſe miniſter will always demand before he undertakes any meaſure which may expoſe or render the nation vulnerable to its natural enemies. The powers, my Lords, which I allude to, are thoſe of France and Spain. None of your Lordſhips can be ignorant that they are now collecting a great naval and military force to be employed ſomewhere; and I think it my duty to ſtate to your Lordſhips a piece of information which I have little reaſon to doubt, and which, if true, muſt be the ſubject of great and juſt alarm to your Lordſhips, and point out the caution and reſerve with which any general aſſurances received by our miniſters ought to be depended on or truſted to. The information, my Lords, is ſhortly this; that two French gentlemen, towards the cloſe of laſt ſummer, went to America, and had a conference with General Waſhington at the Provincial camp, who referred them to the continental congreſs, whither they immediately repaired. On the whole, my Lords, whether you conſider the preſent meaſures in the light

light of humanity, equity, or ſound policy, I truſt that your Lordſhips will agree with me, that the means of conciliation are ſtill within our reach, and that nothing but the moſt urgent neceſſity ſhould compel us to embrue our hands in the blood of our fellow ſubjects, at the riſque of ruining our commerce, and of involving ourſelves in a war with the united ſtrength of the Houſe of Bourbon.

For this purpoſe his Grace moved, "That an humble addreſs be preſented to his Majeſty, beſeeching him, that, in order to prevent the further effuſion of blood, and to manifeſt how deſirous the King of Great Britain and his Parliament are to reſtore peace to all parts of the dominions of his Majeſty's crown, and how earneſtly they wiſh to redreſs any grievances of his Majeſty's ſubjects, his Majeſty would be graciouſly pleaſed to iſſue a proclamation, declaring, that if the colonies, within a reaſonable time before or after the arrival of the troops deſtined for America, ſhall preſent a petition to the commander in chief, or to the commiſſioner or commiſſioners, to be appointed under the act for preventing all trade and intercourſe with the ſeveral colonies therein mentioned; ſetting forth in ſuch petition, which is to be tranſmitted to his Majeſty, what they conſider to be their juſt rights and real grievances; that in ſuch caſe his Majeſty will conſent to a ſuſpenſion of arms; and that his Majeſty has authority from his Parliament, to aſſure them that ſuch their petition, ſhall be received, conſidered, and anſwered."

The Earl of *Dartmouth*. The noble Duke having alluded to me perſonally, makes it neceſſary for me to ſay a few words as to my own particular ſentiments. His Grace has quoted my words, in a former debate, to ſhew what was my then opinion, and how far adminiſtration had changed theirs ſince I quitted the office I had then the honour to fill. For my part, I do not at all doubt but the expreſſion adverted to might have fallen from me; nor do I mean to diſavow it now. My opinion both then and now was, that it was neither the intereſt of this country, nor the wiſh of Great Britain, to make a conqueſt of America. If that be what the noble Duke means by unconditional ſubmiſſion, I am ſure I ſhould be far from approving of it; but if unconditional ſubmiſſion be a reſolution, on our part, not to ceaſe hoſtilities till America ſubmits ſo far as to acknowledge the ſupreme authority of this country, I am ſtill conſiſtent; for I ever was, and ever ſhall be of opinion, that this country cannot, with propriety, concede, nor can we, conſiſtent with the honour, dignity, or

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moſt eſſential intereſts of this country, conſent to lay down our arms, or ſuſpend the operations now carrying on, till the Colonies own our legiſlative ſovereignty; and, by acts of duty and obedience, ſhew ſuch a diſpoſition as will entitle them to the favour and protection of the parent ſtate. Beſides, I do not hold it perfectly fair or parliamentary to bind a perſon to expreſſions and opinions given in one ſituation of affairs, when that ſituation comes to be materially altered. I was willing to ſuppoſe that the diſorders in that country were local, and had chiefly pervaded the hearts of an inconſiderable number of men, who were only formidable, becauſe they poſſeſſed the power of factious deluſion and impoſition. I all along expected that the *body* of the people, when they came to view the conſequences cloſely, and conſider them attentively, would ſoon perceive the danger in which they were precipitating themſelves, and; of courſe, return to their duty. Urged by thoſe expectations, I was anxious to treat them with tenderneſs, to give them every reaſonable indulgence; and even to give way to their prejudices, ſo far as it could be done with ſafety. What has been the conſequence? They have treated thoſe marks of favour as ſo many indications of national imbecility; they have abuſed this lenity in proportion as it has been liberally and affectionately exerciſed; and they have imputed our humanity and forbearance, not to motives of tenderneſs and maternal affection, but to a timid backwardneſs and want of ability to aſſert our rights. The noble Duke grounds his motion on motives of humanity, equity, and policy. I will venture to contend, that neither the noble Duke, nor any other noble Lord in this Houſe, is more warmly inclined to humane meaſures than I am. But does his Grace's motion promiſe to promote humanity? I am ſure it does not; for if there be any thing at all in the tenderneſs he has expreſſed, or the horrors he has deſcribed at the thoughts of the effuſion of human blood, the ſureſt way to prevent a calamity, which I as earneſtly deprecate as any Lord in this Houſe, will be to ſend the armaments, now deſtined for that country, with all poſſible expedition. Their fears may exact a conduct which, I am well perſuaded, their duty or obedience would never have inſpired. They will be convinced that we have the ability, as well as the inclination, to compel them to acknowledge the true ſubordinate and conſtitutional relation they bear to the mother country. So that uniting with the noble Duke on the principle of humanity, but differing

fering on the means, I am of opinion, that the only ſure and ſolid way of averting the evils of civil war, and all the dreadful conſequences which ſuch a melancholy and dreadful ſtate of things would neceſſarily produce, will be to ſend ſuch a force as will awe the Colonies into ſubmiſſion; as will lay a laſting baſis for the future ſecurity of the conſtitutional rights of that country, the ſupreme legiſlative controling authority of this, and the general intereſts of the whole empire. In my opinion, every one of thoſe objects would be defeated, ſhould the motion now made by the noble Duke receive your Lordſhips' approbation. What does it import? That you ſhall immediately addreſs his Majeſty, that a royal proclamation be iſſued, to ſuſpend all future hoſtilities, in order to wait the effect ſuch a proclamation may have in America. Will not this be purſuing that plan of miſtaken lenity which has been complained of as one ſource of our preſent ſituation? Will it not be fairly declaring that we are afraid to aſſert our rights, or, that we are conſcious of inability to aſſert them? I am ſure it will have that appearance, and will be ſo interpreted by the people of America. I would further recommend to your Lordſhips to conſider, that, although the intended force ſhould be ſent out, as I hope and truſt it will, that will not preclude an accommodation; it will not prevent us from hearkening to their propoſitions. It may be the means of reſtoring the Colonies to their ſenſes; but it will never prevent us from granting ſuch terms as we may deem conſiſtent with the dignity of Parliament, and the rights of the parent ſtate. However, as the noble Duke has framed his motion, and ſupported it by arguments which ſeem to imply an alternative of war, for the purpoſe of conqueſt, or unconditional ſubmiſſion, I would wiſh to move the previous queſtion, in preference to a direct negative; and I will ſtate to your Lordſhips the reaſon why I prefer the former, though I do not at all agree with his Grace, that a negative to his motion would ſhew that it was the intention or deſire of this Houſe to inſiſt on an unconditional ſubmiſſion in the exact terms he has deſcribed it. My reaſon is, leſt ſuch an idea ſhould get out, and prevail either here or in America. Nevertheleſs, if any of your Lordſhips ſhould think otherwiſe, I am very willing to withdraw the previous queſtion; for, whether the motion is negatived in one way or the other, if that ſhould be the event of it, I am determined, for my own part, to give it a negative; becauſe I am convinced it may be productive of great evil, by breaking and interrupting the line of public meaſures already agreed on, and can produce

produce no one good conſequence whatever, the matter of accommodation lying equally open on the grounds now explained, with or without it; while, on the other hand, ſhould you agree to it, your Lordſhips would thereby virtually declare a diſapprobation of the meaſures now purſuing againſt America, or confeſs your inability to carry them into execution.

The Duke of *Mancheſter*. The preſent ſtate of public affairs, my Lords, whether conſidered in the groſs or detail, affords ſufficient reaſon for every man who feels for the dignity, honour, and intereſts of his country, to be moſt ſeriouſly alarmed. The very great expence with which the preſent meaſures muſt neceſſarily be attended; the uncertainty of the real diſpoſition of foreign powers, and the preſent ſtate of our navy, which, I am aſſured, is far from being in that reſpectable ſituation your Lordſhips have been given to underſtand by the noble Lord who preſides at the head of that department, all united, give juſt cauſe for conſidering the preſent queſtion, and adverting to the dangerous conſequences which may follow, in caſe your Lordſhips ſhould be inclined to give it a negative. I am far from imputing any deſign in the noble Lord to either miſlead or miſrepreſent. I am perſuaded his Lordſhip has faithfully reported whatever came within his own knowledge; but being obliged to truſt in moſt of the matters which he has ſubmitted to your Lordſhips, to the information of others, he has of courſe been liable to error; and, if I have not been groſsly miſinformed, by profeſſional men, his Lordſhip's account of the ſtate of the guardſhips, the number of men aboard them, and the facility of procuring them, is indeed very far different from what the noble Lord has aſſerted. I am informed, for inſtance, that the Eagle, the very ſhip in which Lord Howe is to hoiſt his flag, has not above ninety able ſeamen aboard her, and that ſeveral of the frigates and ſhips of war deſtined, or which have ſailed for America, have either been obliged to proceed on their reſpective voyages very indifferently manned, or that that alacrity and ardour which the noble Lord told us of, is not founded in fact; for the men who were ſhipped aboard thoſe veſſels deſtined for immediate ſervice, were obliged to be taken from aboard the guardſhips, to complete their complements, which is the very contrary of what his Lordſhip aſſerted the laſt day this matter was made the ſubject of converſation. This brings me to conſider another aſſertion made by his Lordſhip, which is, that the deficiency aboard the guardſhips was occaſioned by

the deſire of the ſeamen to be ſhipped aboard the men of war deſtined for the American ſervice. How could that poſſibly be the caſe, if in the firſt inſtance the complements of theſe laſt were to be made up out of the former; and if the drafts, along with the deficiency ſtated in the complements of the former, were now no greater than before the drafts were made? But, my Lords, I believe neither will be found to be the caſe. I believe the deficiency aboard the guardſhips will be found to be conſiderably greater than his Lordſhip has ſtated; and further, that the crews are compoſed of men who ſhould never be entered aboard our men of war. If I am rightly informed, ſmall as the numbers are, that is not the worſt of it; the crews are compoſed of landſmen, in much too great a proportion, of vagrants, and, I fear, of convicted felons. I ſhould be glad to be ſet right; but if it be true, it is a moſt melancholy and alarming circumſtance. The navy, my Lords, is our only ſure bulwark againſt our foreign enemies; particularly as we have been obliged to part with the greateſt part of our military defence, in order to carry the preſent propoſed meaſures into execution. If then, in caſe of any emergency, an attack ſhould be made on us in our preſent weak ſtate of internal and naval defence, the conſequences might be indeed dreadful. That we have no reaſon to reſt in a ſtate of ſecurity, my Lords, I am well convinced. I have good reaſon to believe that France and Spain are meditating ſome blow againſt us. The matter alluded to by the noble Duke who made the motion, I have reaſon to think is too true. I heard it above a month ago, and ſhould have imparted it to your Lordſhips before now, had not I waited to have heard it communicated by adminiſtration. I preſumed they would have informed your Lordſhips of the matter, and either have ſtated their reaſons for paying it no attention, or have told you what ſteps they had taken in conſequence thereof, in order to bring France to an explanation. I would likewiſe remind your Lordſhips, that great preparations are going on in France and Spain, both by ſea and land. It may be ſaid, that another attempt is intended to be made on Algiers; or that the diſputes ſubſiſting between Spain and Portugal, in South-America, may be the object of this armament. The former may be the caſe; but if the force now collecting in thoſe countries ſhould be deſtined againſt Portugal, your Lordſhips will pleaſe to recollect what was aſſerted in a former debate, by a noble Earl whom I have in my eye, [Lord Rochford] not now in office, but who then occupied

cupied a high and reſpectable poſt in adminiſtration, that if Portugal ſhould be attacked, we muſt neceſſarily be made parties in the war, and be bound to afford her every aſſiſtance in our power. In ſhort, my Lords, uniting all the cauſes, circumſtances, and probable events, which firſt created, or may be conſequent of the preſent diſpute, I am heartily for agreeing with the motion made by the noble Duke; and am for giving the colonies an opportunity of returning to their duty, both as a ſecurity to their conſtitutional rights, and as a means of preventing the calamities every part of this empire is threatened with, in caſe we ſhould perſiſt in carrying our preſent ruinous, unjuſt, and oppreſſive deſigns into execution.

The Earl of *Sandwich*. I did not intend to trouble your Lordſhips on the ſubject of this debate, had not I been particularly called on by the noble Duke who ſpoke laſt, and who, I can ſafely affirm, is either materially miſtaken in every fact he has ſtated, or has drawn concluſions which his Grace was by no means warranted in, in every inſtance where his aſſertions had any ground or colour of reality to ſupport him. I am extremely ſorry that my noble relation, before he hazarded any charges of the nature now brought forward, did not conſult me, as I could eaſily and ſatisfactorily have ſet him right, and convinced him that he had been groſsly miſinformed. I am pretty well ſatisfied, I may venture to ſay I know the quarter his Grace has had the information he has now ſtated, and ſo earneſtly urged. The authors are known by their daily writings in the papers, by their ſpeeches in another place, by the general tenor of their diſcourſes, and by the motions they have made; but I will tell the noble Duke, what perhaps he is ignorant of, that thoſe men are ſuperficial, uninformed; and that every effort they have made to diſparage the conduct of that board at which I have the honour to preſide, has only exhibited proofs of their total ignorance, their rancour, and their perſonal ſpleen. The noble Duke ſays, he has received his information from profeſſional men. I beg, however, that his Grace, previous to his giving truſt to ſuch aſſertions and ſuch reaſonings, will ſend thoſe profeſſional men to me, when I promiſe to convince them that they know nothing at all of the matter. The noble Duke ſpeaks of the Arethuſa, the Romney, the Eagle, &c. being at preſent unable to proceed to ſea, on account of their being defective in their complements. By the laſt returns I have received of the ſtate of thoſe ſhips, I am authorized to ſay his Grace has been miſtaken in point of fact in every one

of them. But ſuppoſing the facts were true, what would it prove? That perhaps, from the eſtabliſhed uſage of the ſervice, the men were changed from one ſhip to another, according as circumſtances made ſuch an arrangement neceſſary: but will it prove the only matter that can poſſibly deſerve diſcuſſion or enquiry, that any one ſhip, ſince the commencement of the preſent naval armaments and operations, has been detained a ſingle day for want of hands? The noble Duke ſays, that the Eagle, aboard which ſhip the noble Lord [Lord Howe] the firſt in command, is to hoiſt his flag, ſtands in this predicament. Were the fact ſtrictly true, as he has reported, I make no doubt but the popularity of the noble Lord, and the deſire of ſerving under ſo able and amiable a commander, would ſoon procure a number ſufficient to make up the deficiency the noble Duke has ſtated. As to the general aſſertion on which his Grace has inſiſted, that the ſcarcity of ſeamen is ſo great, that we have been obliged to have recourſe to the expedient of ſupplying it by entering vagrants and convicted felons, I am ſure nothing of the kind has happened; and I ſhould be extremely averſe to adopting ſuch a ſcheme, or countenancing any mode of manning our navy under any circumſtance of neceſſity whatever that might lead to the diſguſting ſo uſeful and brave a ſet of men; beſides, I think it would be very improper on many accounts; it would be the means of corrupting their morals, which, with me, ſhall always continue to be one of the prime objects of my care to prevent, as long as I ſhall have the honour to remain in my preſent ſituation. Our ſeamen are, in general, men of very commendable conduct, and remarkable good morals, ſo long as they remain on board. If they are diſſipated when on ſhore, the conſequences of their diſſipation ſeldom reach further than ſpending their money in riot, &c. which has this good effect, in reſpect of the ſervice, that when their money is ſpent they return to their ſhips with chearfulneſs, their means of living on land being at an end. What, then, would be the probable conſequence, ſhould vagrants and felons be permitted aboard his Majeſty's ſhips of war, but that the moſt profligate and abandoned of their ſpecies would mix with the whole body of ſeamen, and contaminate their morals; render them remiſs and careleſs of their duty while on board, and when on ſhore inſtruct them in their iniquitous modes of obtaining ſubſiſtence? All which, whether conſidered in a political or a moral light, or as being injurious to the ſervice in general, are matters that ought to be carefully attended to and prevented. On this account, I think the preſervation of the *morals* of the ſeamen is a matter of no ſmall conſequence.

I have

I have been always attentive to it. I do not believe that any felons, or men of notorious bad characters, have been entered; I am ſure, if they have, it has been without my knowledge; nor ſhould I concur in any ſcheme of the kind, had I been previouſly conſulted. Taking, however, the facts thrown out by the noble Duke in another light, what do they amount to, allowing them to be true? I am within your Lordſhips' recollection, that I aſſerted, in a former debate, that the full complements of the twenty guardſhips amounted to 6800 men; that there were but 6300 men actually on the books; that, conſequently, there was a deficiency of 500 ſeamen; and that that number could be eaſily procured, or, in caſe of actual or ſudden emergency, almoſt inſtantaneouſly completed by a preſs. Do the preſent facts contradict what I then ſubmitted to your Lordſhips on this ſubject? I ſtated a deficiency; I informed your Lordſhips of the facility of procuring men, of which I have had daily experience; adding, at the ſame time, that, in caſe of a ſudden neceſſity of ſending the ſhips to ſea, a preſs would furniſh me with the means of providing againſt any poſſible exigency that could ariſe. Though I ſpeak of a preſs, I do not think we ſhall have any occaſion for one. When I ſpoke laſt on this ſubject, I ſaid I believed we ſhould not, nor have I had any reaſon ſince to change my opinion; but I did not then bind myſelf to any poſitive engagement that preſs-warrants would not be iſſued. I am ſtill as far from thinking that they will, but I by no means tie myſelf down to unconditional promiſe that they will not. I repeat what I have ſaid before frequently, that nothing but neceſſity will oblige me, and that neceſſity ſeems as far diſtant as ever. I would avoid it if poſſible. Preſſing, my Lords, is attended with great ſeverity and uncommon hardſhip; nothing can be more dreadful than to tear an uſeful member of ſociety from his family and his deareſt connections, when probably his induſtry and protection is moſt wanted. I have often turned my thoughts to the ſubject, and hope in the end to be able to perfect ſome ſcheme which will render preſſing of ſeamen entirely unneceſſary. I have already had ſome experience that the uſual mode of procuring men is moſt certainly defective; and, while I wiſh to explain myſelf, I am glad to have an opportunity of ſpeaking of the worth and merit of two very deſerving officers; one of them a near relation to a noble Earl, whom I now ſee in his place [Lord Abercorn]; the gentleman I allude to is Captain Hamilton; the other, Captain Pownall, who, with a fortune of 100,000l. without any temptation to go to ſea, but what was inſpired by a ſenſe of duty and the

juſtice of the cauſe: both thoſe officers tendered their ſervices unaſked; and both of them, without any application for aſſiſtance from the admiralty, procured their complements within a few days, ſo as to be ready to proceed to ſea; one of them, I believe, in leſs than a fortnight, and that purely by entering men at rendezvous-houſes to ſerve aboard their reſpective veſſels. Such a mode of procuring men creates a confidence and protection between the commanding officer and the ſeamen. The former is, in ſome meaſure, bound to act tenderly and humanely to the man who gives him the preference of ſerving under him; and the latter will find his intereſt and duty unite, in behaving well under a perſon from whom he is taught to expect every preſent reaſonable indulgence and future favour. Theſe, and ſome other inſtances of a ſimilar nature, which have come to my knowledge, have enabled me to point out one thing that might, in my opinion, be the means of furthering the naval ſervice; that is, truſting leſs to the aſſiſtance of the admiralty board, and giving every poſſible encouragement to the captains appointed to the command of ſhips to complete their own crews. I am ſure the happy effects of ſuch a mode of expediting the naval armaments have been felt in the two inſtances I now allude to, as well as in ſome others I have forborne to mention. I have only one word more to add on this head before I ſit down, and that is, to explain, on a general ground, the little conſequence the deficiencies, which have been ſo pompouſly magnified, and ſo ſeriouſly inſiſted on by the noble Duke, can be of to the ſervice. We will ſuppoſe a ſhip is ordered for ſuch a ſervice; while, therefore, ſhe is preparing, her crew may be defective; but as ſoon as ſhe is under orders for ſailing, the deficiency is ſoon made up in the manner now mentioned, or men are taken from the guardſhips, or from other veſſels that are not in ſuch a ſtate of forwardneſs; and ſo it happens ſucceſſively as occaſion requires, without injuring or impeding the ſervice in any degree whatever. The noble Duke ſays, that the foreign troops, having marched to the place of embarkation, and not finding the troops ready to receive them, have been obliged to return to their quarters. I believe his Grace has been equally miſinformed and miſled in this, as well as in every other inſtance. I am certain the fact is not ſo, and I will tell his Grace that at no time has the tranſport ſervice been more expeditiouſly conducted; for I am certain that it was never known in this country that ſo many tons of ſhipping were procured within ſo ſhort a time; *and what* rendered this circumſtance the more extraordinary was,

was, the extreme ſeverity of the weather, which, by the returns made to me, had put a ſtop to all work and buſineſs for a fortnight during the time of the froſt. The noble Duke who made the motion has founded it on motives of humanity, equity, and ſound policy. To the firſt I ſhall only ſay, that the preſent meaſures, if ſteadily purſued, will, to every ſubſtantial purpoſe, anſwer the ends of humanity, and be the moſt effectual means of preventing the effuſion of human blood In point of equity, I am ſure the motives for rejecting his Grace's motion are equally ſtrong, unleſs we conſent to ſurrender the moſt eſſential and ſacred rights of the Britiſh legiſlature. And as to the policy and expediency, I will venture to ſay, that the noble Duke is no leſs miſtaken; for as we have the right, ſo I truſt we have the power to aſſert that right, and will be able to convince the Americans that our ability will be made no leſs conſpicuous than the juſtice of our claims, the humanity we have manifeſted in the manner we have aſſerted them, and the meaſures we mean to purſue in their maintenance and ſupport.

The Duke of *Richmond*. The noble Earl who lately preſided at the head of a certain department [Lord Dartmouth] ſeems to doubt, or is willing to explain away, the expreſſion alluded to by the noble Duke who made the motion. I recollect his Lordſhip's words preciſely: I took a note of them at the time, and they were, "that it was the intention of adminiſtration to relax and conciliate, and never by force of arms to *ſubdue* America." This, my Lords, I contend, was the idea thrown out in the ſpeech; and was the oſtenſible object of the clauſe the laſt mentioned noble Duke alluded to; though I perfectly coincide with his Grace, that war alone, for the purpoſe of ſubduing America, lay concealed under that clauſe, as now manifeſtly appears. What does the clauſe import? Does it contain any one ſpecific proviſion whatever? Is it not rather a looſe, indefinite jumble of words, meaning nothing, or, at leaſt, nothing but to veſt in the Crown a power of diſpoſing of the rights of Parliament; of leaving Parliament all the odium; and giving his Majeſty, ſhould the ſcheme of coercing America prove impracticable, all the credit of any conceſſion Parliament might hereafter be diſpoſed to agree to. I would deſire your Lordſhips to turn to the clauſe, and ſee the condition on which any meaſure of conciliation is to reſt: "whenever any province, &c. ſhall ſhew a diſpoſition to return to their duty." How is this diſpoſition to be known? Not by

the Congreſs, for you have refuſed to treat with them; not with any particular deſcription of men, for there can be none legally entitled to anſwer further than themſelves are concerned. There are no aſſemblies in being. Who then can you treat with, but with individuals whom you mean to detach from their countrymen, in order, by holding out offers of pardon, to create diviſions; and, by effecting that, forwarding your ſchemes of either ſimple conqueſt or unconditional ſubmiſſion? But I do aſſure your Lordſhips, that this ſcheme, however artfully planned, or deeply laid, will meet with the ſame fate of all the reſt. The people, ſo as to anſwer the ends you propoſe, will never permit themſelves to be duped. It will be received as the propoſition made to the Congreſs by one of the [Sir Grey Cooper] members of adminiſtration in the other Houſe was. This will never effect what the hundred thouſand pounds offered by that gentleman to the Congreſs, if they would agree to the noble Lord's conciliatory propoſition, failed to do. Every offer, however covertly made, muſt be diſcloſed at laſt. That is the conſtitution of the Congreſs. They were obliged to impart to their conſtituents that they refuſed the money; and that inſidious propoſition, though ſhort of the ſyſtem now purſuing, met with that degree of diſregard and contempt it deſerved. But, ſuppoſing that the Congreſs had conſented, do your Lordſhips imagine that the people would have ſubmitted to ſuch ignominious terms? I am certain they would not The Congreſs is a temporary fluctuating body, choſen for a certain term; and as the people found that the point in iſſue, had the Congreſs aſſented, would have been virtually ſurrendered, it is probable they would have appointed other delegates, who would have undone every thing that had been agreed to by their predeceſſors, for they would never acquieſce in a mandate which ſays you ſhall tax yourſelves, you ſhall collect thoſe taxes, and ſend the produce to be depoſited in the Britiſh treaſury; and we do, at the ſame time, reſerve to ourſelves not only the negative of diſapproving of the *quantum*, but likewiſe the right of taxing you in any manner, or to any extent, we may hereafter think proper. The noble Earl, my Lords, who ſpoke laſt has, in my opinion, made uſe of a very preſumptuous expreſſion in reply to the noble Duke who ſpoke immediately before him. He tells his Grace not only that he is totally miſtaken and miſinformed, but, ſuppoſing him to have received his information from profeſſional men, deſires him to ſend thoſe profeſſional

ſeſſional men to him, and that he will convince them of their ignorance, and that they know nothing at all of the matter. This, I confeſs, is a language I have been hitherto unaccuſtomed to; I always imagined that profeſſional men were ſuppoſed to know ſomething of their profeſſion; I always thought that in undertakings of an important and arduous nature they were conſulted. I never expected to have heard ſo reſpectable a body condemned in the lump, and included in a general charge of ignorance and incapacity. If the noble Earl is ſerious, I think this fact ought to be one reaſon for our deſiſting from our preſent deſign; for if the charge be true, who ſhall we have to carry it into execution? Or, taking it in another light, if the talents and knowledge of profeſſional men are held ſo cheap and in ſo much contempt, and that the noble Earl has only relied on his own judgment, which, however tranſcendant in other reſpects, I cannot put in competition with thoſe who have devoted their whole lives to a profeſſion, I am not at all ſurprized that all our operations have hitherto miſcarried. The noble Earl has denied that vagrants or convicted felons have been entered and entertained aboard his Majeſty's ſhips of war; but I can, partly from my own knowledge, contradict his Lordſhip in this aſſertion. As lord lieutenant of the county of Suſſex, I received an order from the privy council, ſigned by the noble Earl in the blue ribbon [Lord Gower] as preſident of that council, deſiring me to cauſe the laws in being againſt vagrants, &c. to be carried into effectual execution. I believe there is not one of your Lordſhips who are ſtrangers to the intended operation and effect of this order, or ſuppoſe that the proclamation alluded to was iſſued for any other purpoſe but to purſue the objects of the law, by cauſing the perſons apprehended under it to be put on board the ſhips then fitting out, and which, whatever the noble Lord may have aſſerted to the contrary, I am well ſatisfied, were detained for want of hands, from proceeding to the places of their reſpective deſtinations. The noble Earl ſpeaks very pompouſly of the power, ſtrength, and reſources of this country. He may be right; but I think we have not yet given any great proof of thoſe, except in the liberality, I may ſay the profuſion, of our grants. His Lordſhip ſays, that our abilities have not been at all exerted; that we are able to employ and provide ten times a greater force than the preſent. His Lordſhip is, I confeſs, very fruitful in expedients; but I ſuſpect he has, in this inſtance, aſſerted

more

more a good deal than he will be able to make good. By the votes of the other Houſe I perceive, that ſix millions, or thereabouts, has been already granted for the ſervice of the preſent year, in which it is intended, even for laſt year, nearly a million for extraordinaries. Now, without computing what the probable expence of the extraordinaries of this year will be, when four times the number of land-forces, beſides the very formidable fleet the noble Earl has entertained us with an account of, are to be employed: I juſt confine the expence to what is already granted. I would then aſk the noble Earl whether he ſeriouſly thinks that we are able to raiſe ſixty millions? for this aſſertion goes exactly to that; or ſuppoſing that we were, whether it would be wiſe, prudent, or politic, to involve us in a ſituation which might render ſuch an exertion of our ſtrength neceſſary? It is, my Lords, on account of our defenceleſs ſtate at home, the heavy expence the proſecution of a war at ſo great a diſtance muſt coſt, the deluge of blood which muſt of courſe be ſpent in ſuch a quarrel, the fear of an attack from our foreign enemies, but above all, the injuſtice of the cauſe, that I am for heartily agreeing with the noble Duke's motion, as a means of preventing all thoſe accumulated evils with which we are threatened. I truſt, ſhould your Lordſhips agree to it, it would produce all the happy effects ſo ably ſtated by the noble Duke; and I, for one, am free to declare, that ſhould the Colonies perſiſt, and, refuſing to enter into terms of accommodation, claim rights deſtructive of the ſovereignty of this empire, as one great political body, I ſhould thenceforward be ſilent in their behalf, and ſhould be as earneſt as the moſt zealous of your Lordſhips, in compelling them to that ſpecies of ſubmiſſion in which the ſtrength and power of this country, and all its dependencies, moſt eſſentially depend. Before I ſit down, as perhaps it may be the laſt time I may have an opportunity of addreſſing myſelf to the right reverend bench on this occaſion, I ſhall ſay a word or two to their Lordſhips. It is true I have been as yet rather unſucceſsful in my appeals to that quarter; but when to the motives of humanity, and all the ſanctions ariſing from a love of peace and an abhorrence to the effuſion of blood, I ſhall add the conſiderations of their Lordſhips' own perſonal concerns, I flatter myſelf, I ſhall be heard with greater attention by the right reverend body. Is it poſſible, my Lords, that in the preſent conflict, while both parties are warmly contending, the conſtitution may be deſtroyed, the rights

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and liberties of the people may be annihilated, or another revolution may happen, and the government may be overthrown. In the latter event, what will probably be the conſequence?—but that in ſuch a ſtate of things, you, my Lords, [the Biſhops] may a ſecond time fall a victim to the rage of the people. The golden prebends, the rich deaneries, the overgrown biſhopricks, may be ſacrificed to appeaſe the wrath, and gratify the expectations of the prevailing party. This may be the caſe, ſhould the conſtitution be overthrown, and it has always been in this country a conſequence of bad government. Our rulers have firſt provoked the people, the conſtitution has been violated, attempts have been made on their parts to ſupport thoſe violations, and the people have generally prevailed in the ſtruggle; ſo that the event has been, whether the rights of the people have been vindicated or invaded, the government has been diſſolved. It is on this account I now particularly addreſs myſelf to the right reverend bench, to remind them of their real ſituation, and to warn them of the conſequences of a ſtate of civil confuſion, as they perhaps will be the firſt and moſt material ſufferers.

The Earl of *Sandwich*. I beg your Lordſhips' indulgence to be permitted to explain myſelf, relative to what the noble Duke who ſpoke laſt has imputed to me. I never arraigned the abilities of profeſſional men in general; I never deſired that they might be ſent to me, to inſtruct them. What I both ſaid and meant, my Lords, was, that the noble Duke was miſinformed; that if he had his information from profeſſional men, I knew who they were: I knew they were ſuperficial, and as ſuch recommended to his Grace, to ſend thoſe profeſſional men to me, and I would convince them that they were ignorant, and knew nothing at all of the matter. I am therefore in your Lordſhips' judgment, and appeal to your Lordſhips' candour, whether my words literally or ſubſtantially admitted of ſuch an interpretation as the noble Duke has put upon them; I am ſure they did not; for as no man has a higher eſteem for the profeſſion, no perſon can be more perfectly convinced of the very accurate and extenſive knowledge of many of thoſe brave and experienced ſeamen alluded to, who would do honour to any profeſſion, or any ſervice.

The Earl of *Dartmouth*. I cannot think that the noble Earl who ſpoke laſt, had the leaſt intention of miſ-ſtating my words, in a former debate. His Grace generally is pretty accurate; but I do however aſſure your Lordſhips, that

that he has imputed ſentiments to me, which I never entertained, and for which I am alone obliged to his Grace's ingenuity, who has exerciſed the miraculous power of transforming what I ſaid on the occaſion alluded to, to ſomething on the whole extremely different from what it was my wiſh and intention at the time to expreſs.

The Earl of *Hillſborough*. I was not preſent in the Houſe when the noble Duke, who made the motion, adverted to me in a matter of explanation relative to the conduct of the cabinet in 1769, when it was propoſed to repeal the act for laying on the port duties in America. I have been now informed that his Grace has aſſerted he was over-ruled and out-voted in council; and that I ſent him a note ſtating the tranſaction. I do not ſay that the noble Duke did not receive ſuch a note, but I deny that it ever came either directly or indirectly from me. The noble Duke who ſpoke laſt, [Duke of Richmond] has again adverted to my unfortunate letter, which has afforded ſuch ample matter for diſcuſſion both in this and the other Houſe; and has aſſerted, that it was done with an intention of amuſing the Colonies, and deceiving them. There is nothing, I truſt, I would be farther from being guilty of, than deceit, in any ſhape or to anſwer any purpoſe. I am certain ſuch a charge will be found totally groundleſs in the preſent inſtance. I appeal to the obvious and natural conſtruction of the letter itſelf; and I would recommend to ſuch of your Lordſhips as may hereafter think it worth your while to take notice of it, to firſt deſire it to be read, in order that the Houſe may be enabled to judge for themſelves, and not be miſled by any partial interpretation of it. Such a conduct would be candid; I am ſure it would be parliamentary. The words of the letter, ſo far as they relate to the preſent ſubject, were, that his Majeſty's then miniſters engaged for themſelves, and deſired the reſpective governors to aſſure the ſeveral aſſemblies, that it was not the intention of this country to lay any tax on America, for the purpoſe of raiſing a revenue. Suppoſing then, thatth is promiſe were binding on all ſucceſſive adminiſtrations, which I preſume will hardly be contended for, will any noble Lord in this Houſe offer to produce a ſingle inſtance in which this promiſe has been violated or departed from? Has there any tax been impoſed, or duty levied, ſince that period? I will not trouble your Lordſhips with any particular diſcuſſion on the right this country has to tax the Colonies. My general ſentiments are already fully known.

known. If ſovereignty includes every thing eſſential to its inherent power and exerciſe, it is to the laſt degree abſurd and ridiculous, to diſtinguiſh between the general legiſlative right to govern, direct and controul, and the partial limited object of taxation, which is clearly included in that right, and neceſſarily forms a part of it. It would ill become me to waſte your Lordſhips' time in purſuing the ſelf-evident conſequences which flow from this principle. The point of expediency in the firſt outſet of this buſineſs might have admitted of argument: the preſent ſtate of it cannot, nor will admit of any. The gentleman [Mr. Grenville] who firſt propoſed the ſtamp act, ſaw this point in a very clear and able light, and determined to couple the maintenance of the right with the neceſſity of obliging America to contribute to lighten the burdens ſhe had been acceſſary in creating. He was a worthy, able man, and in ſome reſpects a great man; yet if he could have foreſeen all the conſequences that have ſince happened, I have ſtrong reaſons to believe he would have deſiſted from his deſign. The gentlemen who ſucceeded him acted from principle, and were actuated by the beſt motives: they found that country in a ſtate little ſhort of civil confuſion. From a ſolicitude to preſerve the peace of the empire, they conſented to the repeal of the law which created thoſe unhappy diſturbances; but even that adminiſtration acknowledged the principle laid down by their predeceſſors in office; for they accompanied the repeal of the ſtamp act with the declaratory law, which maintains the legiſlative ſupremacy of this country in all caſes whatever. When the duties were laid on in 1767, I did not attend, nor had I any hand in impoſing them; nevertheleſs, as the right was queſtioned by America, which is the main point to which I would wiſh your Lordſhips to turn your attention, I confeſs I was of opinion, that unleſs we reſolved entirely to relinquiſh the ſovereignty over that country, by no means to conſent to a total repeal. I ſaw the neceſſity of retaining a part of the duties, till America ſhould recognize the right of impoſing them. I acted ſtrictly up to thoſe ideas; I voted againſt the total repeal on that ground; and I concurred in adviſing and agreeing to the latter on the ſame motives. A full, clear, and ſpecific acknowledgment of the right, I thought neceſſary; when that was perfectly and completely ſecured, I was willing to concede on the ground of expediency alone. I am ſtill of the ſame opinion, and ſhall ever continue to reſiſt, to the utmoſt of my power, in whatever form

form it may be brought forward, every propoſition for conceſſion or accommodation, ſhort of ſubmiſſion and acknowledgment, ſuch as I have deſcribed; becauſe, I am perfectly convinced, that if the right of taxation be ſurrendered, every other beneficial right of ſovereignty will ſoon follow, and America in the end be totally ſeparated from this country. The noble Duke, on a former occaſion, expreſſed his diſapprobation very ſtrongly of the law for altering the charter of Maſſachuſet's Bay, paſſed the laſt year but one. For my part, I think the law was in every reſpect extremely neceſſary. Firſt, as to the right, becauſe every charter, from the very nature of the grant, is controulable and diſſolveable by the ſupreme legiſlature. Only reflect, my Lords, for an inſtant, what the conſequence would be, if the contrary were true? The King might grant excluſive privileges by charter; he might name them in ſuch a manner as to render them totally independent of Parliament; and he might in fact, by this means, parcel out the whole empire into as many independent communities as he pleaſed. Surely, my Lords, ſuch an abſurdity is not to be endured. I contend, that all corporations are under the controul of Parliament; that it is competent for Parliament, to alter, amend, or abridge the privileges thus granted, whenever they ſee that the intereſts of the empire demand it. Let us, then, in maintenance of the general principle, make a particular application of it, as affecting the colony of Maſſachuſet's Bay. Towards the latter end of the reign of Charles the Second, a policy prevailed which I as heartily diſapprove of as any of your Lordſhips, that of diſſolving charters at the mere will and pleaſure of the crown, or at leaſt in a mode nearly as exceptionable. I believe, however, that the matter I am going to allude to, happened to be an exception to the general abuſe of the power exerciſed by that monarch. It was diſcovered that the charter granted to Maſſachuſet's Bay, was no more than an incorporation of certain perſons, for the mere purpoſes of carrying on trade, under the deſcription of a chairman and ſo many aſſiſtants; the vacancies in the latter to be filled up by the chairman, and the preſident's ſeat when a vacancy happened, by the majority of the aſſiſtants. What was the conſequence? Why, this body of men uſurped all the powers of civil government; and, inſtead of a trading company, erected themſelves into a kind of little republic, diſclaiming almoſt all political relation to the parent ſtate. Actuated by thoſe principles of republicaniſm, which have prevailed

prevailed among them in a greater or leſſer degree ſince their earlieſt ſettlement in that country, the chairman ſoon aſſumed the name of governor, and his aſſiſtants that of a council, over whom, for the reaſon before aſſigned, the King had no power, for he was not permitted to appoint either. The charter on this account was accordingly diſſolved; and though after the Revolution the people of that province did every thing in their power to obtain a renewal of it, their endeavours proved unſucceſsful. King William's council, though they had riſked their lives and fortunes in ſupport of the conſtitutional liberties of their country, could never be prevailed upon to eſtabliſh, or renew claims ſo derogatory to the legiſlative rights, the ſovereign controul, and the eſſential intereſts of this country. At length the people of New-England were obliged to ſubmit. Their country was divided into diſtinct governments, and the King reſerved to himſelf the power of appointing the governor in the province vince of Maſſachuſet's Bay, and provided in another manner for the election of the council. So the conſtitution of that government ſtood at the commencement of the preſent diſputes, when it was found that a defect remained, which was very ſeverely felt, and which cauſed a continual interruption to the carrying on of the public buſineſs. It was this: By King William's charter, though the appointment of the governor was reſerved to the Crown, the council were choſen by the people. By which means the governor found himſelf continually thwarted or over-ruled in council; conſequently whatever meaſures he adopted were either weak or inefficacious, and government became in a great meaſure uſeleſs or inactive. To remedy that evil, the charter bill was framed and paſſed into a law. I am ſorry it was not thought of earlier; for I am certain if it had, none of the conſequences which are now ſo ſtrongly felt, and ſo juſtly lamented, would have ever happened. The hands of government would have been ſtrengthened, and the promoters of peace and obedience would have had it in their power to exert themſelves; none of the raſh acts which gave birth to thoſe bills of puniſhment would have ever happened; or if they had, the miſchiefs would have been corrected or ſuppreſſed inſtantaneouſly, and the colony, and of courſe the whole continent, would by this time have been in a ſtate of perfect tranquility and obedience. On the whole, my Lords, ſo far from diſapproving with the noble Duke of the charter bill, or wiſhing it had never paſſed as a meaſure of government,

vernment, all I have now to lament is, as a means of preventing all the ill conſequences which have ſince happened, that it was not thought of and carried into execution at a time, when, I will venture to affirm, it would have been productive of the moſt happy and ſalutary effects.

The Lord Wycombe [Earl of *Shelburne*]. I came down this day to the Houſe with an intention of ſeconding the motion made by the noble Duke, becauſe I think it is the only meaſure now left which can poſſibly extricate us from that inevitable deſtruction which awaits us, ſhould we obſtinately continue to perſiſt in that preſent wild and romantic ſyſtem of conqueſt and coercion, which I perceive is profeſſed by ſeveral, who, I fear, have influence enough to cauſe the dangerous experiment to be made. I have, from the very beginning of this melancholy buſineſs, been always of opinion that a middle path might be hit on by which this country may be enabled to both acquit herſelf with honour, and yet diffuſe the bleſſing of her once benign and happy government to her American ſubjects, without ſacrificing thoſe intereſts, which I ſhall always be as jealous, and as zealous to preſerve and retain as any one of your Lordſhips; meaning, however, to be underſtood on this clear principle that the power of taxing themſelves, and the rights enjoyed by charter, muſt be preſerved to the Colonies inviolate. I ſhall ever think, that any attempt to deprive them of either of thoſe, will ever be no leſs unjuſt in principle than impracticable in the execution. I know, even after this, after conceſſion on our ſide, and ſubmiſſion and confidence on theirs, a great deal will ſtill remain to be done. Much muſt be truſted to the wiſdom, integrity, and moderation of miniſters. They will have many great and uncommon difficulties to encounter. I foreſee many of them. The diſpoſition of the army in particular, I predict will be the ſource of great doubt, and no ſmall contrariety of ſentiment both here and in America. I however put in my claim to be underſtood, as by no means giving up or being willing to relinquiſh the right inherent in the ſovereign, of ordering, directing, and ſtationing the army in whatever part of this empire he may think proper; and I confeſs it is with no ſmall degree of aſtoniſhment and uneaſineſs I have heard doctrines of a very different nature maintained within this houſe by ſeveral noble Lords, whoſe more peculiar buſineſs it is to watch and take care that his Majeſty's juſt prerogatives be maintained entire and undiminiſhed in all their parts. I particularly allude to the

the tranſactions in Ireland, and the language held by the Parliament of that kingdom. It is true, I have a very conſiderable property in Ireland, and have its intereſts ſincerely at heart, but nevertheleſs I would not wiſh to advance them at the expence of this country. Beſides, I am convinced, that any partial favour granted to that kingdom, unleſs in points of local advantage, which do not interfere with the controul and ſupremacy of this, would in the end be no real advantage to it. If the laws againſt Catholics be cruel and impolitic; if the monopoly claimed by this country, in ſome inſtances, be liable to the ſame objection; if any laws were wanting which may encourage domeſtic induſtry and promote cultivation, none of your Lordſhips would be readier to agree to any ſcheme which might conduce to ends ſo ſalutary and deſirable; but when I hear it aſſerted that the military force of this empire is to be divided into ſeparate eſtabliſhments, not under the immediate controul of the ſovereign: when I hear it maintained that it is not competent for his Majeſty to ſend foreigners, under the ſanction of a Britiſh Parliament, into any part of the empire, for its particular defence, or for the ſafety of the whole; when I hear that a certain local military eſtabliſhment is fixed, and, as it were, locked up in Ireland, ſo as not to be called forth, as the exigencies of affairs may require; I cannot forget my duty ſo much as to be ſilent, and not expreſs my moſt hearty diſapprobation of doctrines ſo derogatory of the prerogative of the Crown and the controuling and ſuperintending power of the Britiſh Parliament. As to the queſtion immediately before your Lordſhips, I look upon it the only one now left for our national ſalvation. It admits of but one plauſible objection, which is, that ſhould we now recede, it would operate as an encouragement to America to riſe higher in her demands, on a ſuppoſition that our conceding at this particular criſis would induce her to conclude, that timidity and a conſciouſneſs of our own inability, not a love of juſtice, were the true motives. Granting every thing which may be built on this argument to have great weight, I would only oppoſe to it this one conſideration, urged by a noble Duke [Richmond] in the debate, that ſhould this turn out to be true, it would give the friends of government ſuch a ſuperiority, ſuch a concurrence of hearts and hands, as would be more than a ſufficient counterbalance for any inconvenience which might ariſe from the ſuſpenſion of arms propoſed by the motion now on your Lordſhips' table. On

the whole, I can ſee no ſolid objection to your Lordſhips agreeing to it: I perceive innumerable forcible reaſons for your acquieſcence. I foreſee the poſſibility, if not the ſtrong probability, of our being compelled to engage in a foreign war. I am convinced that the preſent ſchemes of conqueſt and coercion are unjuſt. I am ſatisfied they are impolitic, and as ſuch heartily unite in opinion, that the prefent motion ought to be agreed to on every principle of humanity, equity, and ſound policy.

The Lord *Lyttleton*. Though I do not think that the noble Lords who ſupport this motion, nor any other noble Lord in this Houſe, have any right to deſire explanations from miniſters, on points which ariſe and are incident to their offices; yet, for my own part, as the matter has been preſſed pretty forcibly by ſeveral of the noble Lords in oppoſition, I ſhould be glad to know from the noble Lords in office, whether they have ſpecific aſſurances from the courts of Verſailles and Madrid, ſufficient to give them a perfect ſecurity that this nation will not be interrupted in the preſent meaſures for the purpoſe of reducing our rebellious ſubjects in America. I urge this more for the ſake of ſtrengthening the hands of government, than for the mere purpoſe of information; for I am perfectly ſatisfied, that no threats or intrigues whatever ſhould prevent us from reclaiming America from its prefent diſordered ſtate, and ſecuring to us in future its dependence and conſtitutional ſubmiſſion. But my motive chiefly is to remind miniſters of what has fallen in the courſe of this debate, leſt their ſilence may be conſtrued into a poſitive acquieſcence. The noble Earl who ſpoke laſt but one [Lord Hillſborough] has exculpated himſelf very ably from the charge of intentional deceit, imputed in his circular letter; but I am far from following that noble Earl in ſome of the reaſoning he reſorted to. His Lordſhip told you that no tax had been ſince impoſed; that if there had, it was not impoſed by the ſame adminiſtration, and that very few, if any, remained in office now who were in office at the time the letter was written. To me, further than the purpoſe of mere perſonal exculpation, all this ſeems extremely irrelative. I cannot agree that any engagement or promiſe made by any adminiſtration, can be deemed binding on your Lordſhips. For my part, I ſhall never agree, as a member of this Houſe, to be bound by any ſuch promiſe. I cannot conceive that it is in the power, nor within the province of any ſet of miniſters, however able, to compliment

pliment away the inherent rights of the Britiſh Parliament. It is incompetent to their ſituation. If the power be in the Parliament, as I am ſure it is, they cannot even themſelves ſurrender it, without a manifeſt breach of truſt. I take it to be a right, original, co-extenſive, and inalienable, not to be parted with or transferred. If ſo, how much leſs can Parliament and the nation at large be bound by an engagement of this nature made by miniſters? I allow that the right of taxation, which is the leading point in diſpute, may, from motives of expediency, be ſuſpended, or abſtained from; but I do not contend, that it can never be abandoned intirely, becauſe it is eſſential to the very nature and exerciſe of civil government. The motion now before your Lordſhips is indeed of a very extraordinary kind. What does it offer? That after the moſt notorious acts of violence, after the moſt patient forbearance on our part, after giving proofs of moderation never before heard of, you are deſired to ſuſpend all further operations. Is this conſiſtent with the wiſdom and dignity of a great and powerful nation? Conſider, my Lords, what a figure you would cut in the eyes of all Europe, in thoſe of your own ſubjects, in the opinion even of the very people for whoſe ſake the benefit is intended: Would not they all unite in pronouncing it the ſummit of folly, of cowardice, and national weakneſs, not lenity and humanity? I am aſtoniſhed to hear the noble Lords on the other ſide urge ſo warmly motives of humanity, in order to induce your Lordſhips to agree with the preſent propoſition. Are there any people under heaven have acted more inhumanely than thoſe very people for whom they now plead? Have they not already deſtroyed even the very appearance of government? Have not they ruined, baniſhed, and proſcribed every man, who has even dared to differ from them in ſentiment? Have not they trampled on every right of perſonal liberty and private property? Have not they even gone ſo far as to ſtifle all free diſcuſſion in print, and overthrown that great Palladium the liberty of the preſs, in the perſon of Rivington, whoſe only crime was, that he publiſhed the thoughts of men who ventured to diſapprove of the meaſures they were purſuing? I do affirm to your Lordſhips, that I have particular information to ſupport me in theſe general aſſertions, from gentlemen of undoubted veracity, who have related a variety of particulars that would aſtoniſh you, if they were made known. But, my Lords, beſides the great queſtion depending between both countries, I would only aſk, what will be the certain effect of this motion? It will only be to give the

Colonies time to prepare for a more vigorous and effective reſiſtance; and if what has been thrown out this day, relative to the real diſpoſition of foreign powers, has any foundation in it, it will anſwer every end of giving time both to our natural enemies and rebellious ſubjects, to make ſuch preparations as will for ever after put it it out of our power to reduce the latter to a proper ſtate of obedience.

The Biſhop of *Peterborough*. I am not ſo inſenſible of my own inſignificance, and, I truſt, ſhall not be ſo forgetful of my duty and my place, as ever to become a buſy meddler in political matters; but your Lordſhips will not think it unbecoming my ſtation to ſay a few words in ſupport of a motion which, notwithſtanding what the noble Lord who ſpoke laſt, and the noble Earl who ſpoke ſome time before him, have objected to it, appears ſtill to me founded upon principles of humanity, juſtice, and ſound policy.

The ſubſtance of thoſe objections, which have the moſt colour of argument, is, that it is unbecoming the dignity of Great Britain to treat with ſubjects that are in rebellion to her authority, while they have arms in their hands; and that a republican ſpirit of independence being the real ground of the diſpute, to negotiate would be only to delay, and give the Colonies time to ſtrengthen themſelves, and thereby become ſtill more formidable than they are.

As to ſaying the Americans are not to be treated with, while they have arms in their hands, it is, in effect, the very ſame thing as ſaying they ſhall not be treated with at all: for it cannot be ſuppoſed, for a moment, that a whole people, engaged in what appears to them the very beſt of cauſes, who have already committed themſelves ſo far as to incur the cenſures of rebellion, ſhould, while they have the means of defence left, forego their only hope, and ſubmit themſelves unconditionally to the will of thoſe whom they think have injured and oppreſſed them, without having the leaſt aſſurance which they can rely upon given them, either of redreſs or ſecurity.

The plain and only inference to be drawn from this argument is, that ſlaughter and devaſtation muſt now neceſſarily be the only means employed to re-eſtabliſh mutual confidence and a cordial reconciliation. As to the idea of the noble Earl, that theſe troubles originated from a republican ſpirit of independence, and therefore to treat would only be to delay, it ſeems to me a begging of the queſtion; and to ſhew it is ſo, I beg leave to recall your Lordſhips' recollection to what was ſaid in the debate on the Boſton port bill. Your Lordſhips were then informed, that the diſcontents

diſcontents in America were confined to the lower order of the people, and were only the idle clamours of an inconſiderable faction, whoſe chief ſupport was the encouragement they had from perſons here at home.

In the next ſeſſion, when the diſturbances grew more alarming, they were ſaid to be owing to the defective conſtitution, and turbulent ſpirit of a ſingle diſaffected province; that conſtitution was altered, and the evil increaſed: now it is ſpread over the whole continent, and it is attempted to perſuade your Lordſhips that it has all along proceeded from one general principle of univerſal independence.

For my part, my Lords, believing in my conſcience, as I do, that we need look no farther for the origin of theſe troubles than the fatal impoſition of the ſtamp act, I can by no means admit the notion, that abſolute independence is even now the object of America. When I firſt heard the poſition at the opening of the ſeſſion, it was altogether novel to me, in any other light than as one of the many Hydra heads, that naturally ſpring from the blood of civil diſſenſion: that ſome there may have been who from the beginning had it in view, I will not queſtion; but if their party ever becomes general, it will be the conſequence, and not the cauſe of our diſputes.

Ill, however, does it ſeem to become the wiſdom and gravity of your Lordſhips' counſels to adopt ſuch a perſuaſion on mere preſumptive evidence, and it ſtands on no other.

For whether America does or does not really aim at abſolute independence, is by no means only a ſpeculative idea; it is fraught with conſequences of the utmoſt importance; it is big with all the horrors of war and deſolation abroad, with all the evils of diſſenſion here at home.

Ill therefore, I ſay, does it accord with your Lordſhips' wonted caution to decide on ſo material a point upon bare probability, deduced from doubtful premiſes, by ſurmiſe, inference, and conjecture, while poſitive proof was to be had; for had it certainly might have been, and I hope ſtill may be had, if an aſſurance was given to the Colonies, (on laying down their arms, and making reſtitution for the violence done to private property) of ſecurity againſt the exerciſe of taxation. It is principally on this, by them deemed a conſtitutional point, and not on viſionary ideas of an independence, which nothing but a perſeverance in error on both ſides can ever realize, that America is united, and hazarding all the conſequences of reſiſtance. The noble Duke's motion is calculated to prevent the dire conflict between re-

ſentment and deſpair. It propoſes no terms, which might embarraſs adminiſtration, not even ſuch as muſt be granted whenever an end is put to this war; for there are very few now ſo ſanguine in their expectations as to think that America, if entirely ſubdued, could be held in peaceable ſubjection, under the exerciſe of taxation. Should it, however, appear that nothing ſhort of independence will ſatisfy America, as I fear but too many of your Lordſhips have already concluded, it will at leaſt have this good effect, it will let us all into the real ground of the quarrel, concerning which we ſo widely differ at preſent. It will unite the ſentiments of all parties; it will give ſtability to adminiſtration, enable them to unfold their plan of operation, and leave no other ſubject of debate than whether it is beſt to conquer or abandon.

His Lordſhip then added, that it was not his intention to enter into the diſcuſſion of a point that had already been too much agitated, and which he wiſhed had never been agitated at all, namely, the ſupremacy of Parliament; but as he hoped to trouble the Houſe no more on the ſubject of America, he begged leave to ſubmit to their conſideration a ſhort reflection or two.

In whatever light, ſays he, I have viewed this ſubject, I have never yet been able ſo far to confound my ideas, as to ſuppoſe that power and right are ſynonimous terms; and to me it appears to avail little, that it ſhould be ſaid the power of Parliament extends over the properties, when it has ceaſed to influence the opinion of the ſubject. Parliament may indeed call men and things by what names it pleaſes; it may ſay that what was formerly conſidered as an aid, a free gift of the people, ſhall henceforward be looked upon as an act of legal obligation. It may ſay this or that is rebellion, and it unqueſtionably becomes ſo thus far, that he who counteracts its deciſions muſt ſuffer the penalties, and may die as a rebel; yet, after all, there is no earthly government whatever, but in a great meaſure is founded upon, and is co-extenſive with opinion; and when once the whole maſs of a people think themſelves oppreſſed, be the caſe real or imaginary, it is the wiſeſt, becauſe it is the only ſafe way for thoſe who govern to change their ſyſtem, and thereby prevent thoſe ſtruggles which in the end, if not fatal to liberty, are dangerous to themſelves.

In every exertion of power, civil or natural, it is right to conſider what is, and what is not, practicable: it was the *glory*, as well as the policy of imperial Rome, at the ſummit of

of her greatneſs; it has in more modern times been the peculiar boaſt of Great Britain, and may it be her practice to the end of time.

——*Per populos dare jura volentes.*

The Earl *Gower* confeſſed, that he had been one of the members in the cabinet who had adviſed and concurred in framing the circulatory letter, written by Lord Hillſborough in 1769, and then read the copy of a letter written by a member of adminiſtration in 1765 [General Conway] to the American governors, maintaining the very doctrines ſupported by the noble Lords who ſpoke againſt the motion, that America, before ſhe had a right to expect any favour or indulgence from the mother country, muſt firſt acknowledge her ſovereignty, and the ſupremacy of this legiſlature.

The Lord *Abingdon* ſaid a few words to ſhew, that the right of taxation, inſiſted on by them, ſtripped America of her property; and the claim of having a right to alter her charters, deprived her of her municipal rights; ſo that, on both accounts, the preſent war carrying on to compel her to an unconditional ſubmiſſion, was a war of conqueſt, and if ſucceſsful, muſt terminate in the abſolute ſlavery of the vanquiſhed.

The Lord *Camden*. I have ſo frequently given my opinion on the injuſtice, on our part, of compelling America to pay taxes, without being repreſented in our Parliament, contrary to the fundamental principles of this conſtitution, the privileges the people of that country are entitled to, as Britiſh ſubjects, and the inalienable rights of mankind, that I ſhall not preſume to trouble your Lordſhips on theſe ſubjects again, unleſs they come directly under debate, or make an eſſential part of the matter under conſideration. I ſhall chiefly confine myſelf to the object of the preſent motion; obſerving, however, before I proceed further, that if there was any colour for the claim of taxing the Colonies, the form, the right which has been attempted to be exerciſed, is abſurd beyond precedent. If it could at all be defended, it muſt be as an act of ſovereign power iſſuing from the legiſlature; but the abſurdity of the other Houſe, whoſe power of granting aids ariſes from repreſentation, granting other people's money, is a ſoleciſm in politics and legiſlation, reſerved for modern diſcovery; an idea that every impartial, intelligent man muſt treat with deriſion; an idea which our predeceſſors would hardly believe poſſible to have entered into the mind of man to conceive, were they to riſe from the

dead, to behold the ridiculous ſcene that is now paſſing, and the manifeſt injuſtice which it involves in it. The light I take the preſent motion in is, to remedy that extraordinary act called the capture act, paſſed immediately before Chriſtmas. I confeſs I am aſtoniſhed how ſuch a law could have ever received your Lordſhips' ſanction. I do not mean to arraign its cruelty, injuſtice, and impolicy, they do not come within the view I intend to take of it. I was indiſpoſed at Bath the time it paſſed this Houſe, and I would be glad to known from either of the learned Lords who defended it, how they could poſſibly permit the clauſe of pardoning to paſs unnoticed; or how they could let ſuch a manifeſt impoſition be put on the Houſe, as that the clauſe delegated any power whatever of opening an accommodation with the Colonies? What does this celebrated clauſe ſay? That his Majeſty ſhall be impowered to grant and receive ſubmiſſions. I would aſk the learned Lord, whether his Majeſty can, under this act, impower commiſſioners to grant pardons to provinces, and whole bodies of men. If he ſhould anſwer, that he can, I will engage to prove that he cannot; and that any perſon who preſumed to act under ſuch a power, would do it at his peril. But if his Majeſty could delegate this power in the extent contended, would that anſwer the profeſſed object of the clauſe? Would it enable the commander in chief or commiſſioners, to enter into a treaty, or agree upon conditions? I do maintain it would not. The man who under ſuch an authority dare make a ſingle conceſſion, ſhort of receiving an unconditional ſubmiſſion or ſurrender, would hazard his neck. To what purpoſe then to ſend out commiſſioners to treat, when any treaty, communication, or intercourſe whatever, according to the language of this Houſe, would not only be treaſon againſt the perſon of the King, but treaſon againſt the State and the legiſlative rights of Parliament? The people of America have been declared rebels; the very act I allude to deſcribes them as ſuch. Where then is the man bold enough to accommodate the ſubſiſting diſputes, by an authority ſhort of that which declared them ſo, except, as before obſerved, America ſhould unconditionally ſubmit? This then is the cleareſt proof, that unconditional ſubmiſſion is the object in view, though it was endeavoured to be concealed under the flimſy clauſe I have been now commenting on; and it is on that account principally, that I am deſirous the preſent motion ſhould ſucceed, to get at the real intentions

tions of adminiſtration, to know whether they mean at all to recede from their full demands, or whether they intend to riſque every thing to purſue war for the purpoſe of a complete conqueſt in one event, or unconditional ſubmiſſion in the other. Their refuſal will no longer leave a doubt of their ultimate intentions. Conceſſion, treaty, negotiation, &c. will have juſt as much meaning as the word accommodation had with the ſoldier in Shakeſpeare; accommodation, when deſired to explain it, he ſaid, meant accommodation. But, my Lords, great ſtreſs is laid upon the Americans ſeizing the caſtles, forts, munition, &c. of his Majeſty; and it is ſaid this is rebellion. If this is true at all, the caſe can only apply to Canada. If, however, we are to examine the law, which in affairs of this nature can be our only guide, I queſtion the truth of this aſſertion. Previous to the reign of Edward the Sixth, it was not puniſhable as treaſon; during the reign of that prince, a law was enacted, which made the retaining the King's caſtles, fortreſſes, &c. againſt his conſent, high treaſon. In the ſucceeding reign, that of Queen Mary, that, with all other laws paſſed ſince the 25th of Edward the Third, were repealed; and I know of none ſince enacted for the purpoſe; and, for my part, I cannot ſee, if the offence was merely confined to that, how a perſon could be legally puniſhed. In this very ſtrange clauſe I perceive there has an expreſſion crept in, but from the whole complexion of this iniquitous affair I ſhould have been inclined to imagine it got there by the blunder of the clerk, as it is rank nonſenſe; it is the condition on which the pardons are to take place, as ſoon as the province ſhall be in the *King's peace*. The phraſe is an unmeaning one, as applied here. The King's peace, if it means any thing, relates to the antient cuſtom, when the feudatories made war on each other, in avenging perſonal wrongs, or by way of repriſal and retaliation. When the King thought proper to put a ſtop to ſuch quarrels, he proclaimed the reſpective diſtricts which were the ſeat of quarrel, to be in the *King's peace*. I have turned the matter frequently in my mind, and think I have at length diſcovered the true reaſon of introducing this antiquated term. It is of a piece with all the reſt of this buſineſs, which has been directed from the very beginning to enlarge the powers of the Crown, under the flimſy pretence of aſſerting the rights of Parliament. Parliament is at all events to be diſgraced; and when miniſters have experienced the impracticability of their ſchemes, all they think they have to do will be to declare the province to be in the King's

King's peace. Hoſtilities will inſtantly ceaſe, and, as a noble Duke obſerved early in the debate, Parliament will incur, both here and in America, all the odium of this attack on the liberty and property of their fellow ſubjects; and the King's ſervants will have the credit of conceding and deſiſting from an attempt, of which they were the original authors, but which experience had taught them, was as impracticable as it was unjuſt, cruel, and oppreſſive.

Lord *Mansfield.* If the noble Lord, who ſpoke laſt, had not ſo fully explained what the noble Duke, who made the motion, and another noble Duke, who ſpoke later in the debate [Duke of Richmond] meant by appealing to me; I never could have conceived, that I ſhould have been called upon to explain or defend a bill, which, I do aſſure your Lordſhips, I never ſaw, nor was conſulted upon, till it was debated on the ſecond reading. I remember, I came very late into the Houſe that evening, and ſhould not have ſaid a ſyllable, if I had not been called upon then, as I am this night. There were but two doubts ſtarted on that occaſion; one of them was, by a noble Duke I have now in my eye, [Duke of Richmond] who wiſhed to know if the ſhips, their tackle, and apparel, lying in the ports and docks of America, not expreſsly offending againſt the principle of the act, by carrying on or intending to carry on any trade, &c. came within the intention of the general clauſe which creates the forfeiture under the deſcription of all ſhips, goods, and merchandize. I informed his Grace and your Lordſhips, that I thought it did; becauſe *any* exception might be a ſource of endleſs confuſion; for if a line were attempted to be drawn in favour of certain perſons, or in reſpect of the mode of incurring the forfeitures, it might probably totally defeat the profeſſed purpoſes of the bill. The other objection raiſed, was by the noble Lord over the way. [Lord Shelburne] His Lordſhip contended againſt the power of pardoning in the lump, veſted in the crown by the bill; for my part, I am now of the ſame opinion I was then; I thought that the power of pardoning in the lump, was a prerogative inherent in the crown from the earlieſt date of the conſtitution. I knew ſuch a power had been uniformly exerciſed by the ſucceſſive monarchs of this realm, from the Conqueſt to this day. I knew, likewiſe, that as they have exerciſed it themſelves, ſo they have frequently delegated it to others. And on this head, I have only to add, that his Majeſty's miniſters were ſo well ſatisfied of the power itſelf, and the competency of the crown to delegate it; that a noble

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Lord [Lord Dartmouth] near me, in ſome ſucceſſive ſtage of the bill, moved an alteration in the preamble, for the purpoſe of reſerving that power. I am, therefore, clearly of opinion, that his Majeſty might have granted pardons, as well to individuals as in the lump to whole provinces, if that act had never paſſed. The noble and learned Lord, from the nature of the commiſſion, has raiſed arguments, and drawn concluſions, on the objects to which it may, or can be legally directed. This, my Lords, will greatly depend on circumſtances, and the prudence and abilities of thoſe to whom the execution of the commiſſion is entruſted. It may be preſumed, that they can have nothing to fear, if they perform their duty faithfully. It can hardly be ſuppoſed, that they will incur the diſpleaſure of Parliament, for acting up to their inſtructions; and it is ſtill leſs probable, that they will riſque the cenſure of both Parliament and their Sovereign, by any improper exerciſe or abuſe of their powers. The noble and learned Lord is at a great loſs to know the preciſe meaning of the phraſe, "well diſpoſed;" and the legal definition of that other phraſe of being "in the *King's peace*." For my part, I am at no loſs to comprehend the meaning of both theſe expreſſions, the firſt plainly importing a diſpoſition in any province, town, or diſtrict, to return to their allegiance, and recognize the ſupreme legiſlative authority of this country; and the other, a proclamation on ſuch recognition and acknowledgment on the part of the perſons authorized by the act, to declare ſuch colony or province to be in the King's peace; that is, to be deemed to be under the protection of the laws, and be reſtored to all the privileges of peaceful and dutiful ſubjects.

My Lords, ſomething very unuſual, I mean to the extent it has been carried this night, has happened on the preſent occaſion. I could not help obſerving, in the courſe of the debate, that almoſt every matter connected with the affairs of America has been amply diſcuſſed, but the *very* propoſition your Lordſhips have been convened to conſider. The port duties laid on in 1767, and the partial repeal in 1769, have been much dwelt on; there is not a ſyllable relative to either in the motion. A noble Duke, who ſpoke early in the debate, [Duke of Manchester] has gone into the ſtate of the navy very largely; there is nothing about the navy in the motion. Another noble Duke, has talked a great deal of convicts and vagrants—the motion is quite ſilent on that head. A fourth [Lord Shelburne] endeavoured to prove, that the work imputed to Montcalm, was a forgery. The ſame noble Lord found fault with the military arrangements

ments in Ireland, ſubjects totally unconnected with the motion; and the noble and learned Lord who ſpoke laſt [Lord Camden] harrangued on the improper interference of government in the affairs of the Eaſt India company—all matters totally foreign to the immediate ſubject now before you.

I had no intention when I came into the Houſe, of taking any part in this debate; but as I have been called up, I ſhall ſay a few words, but mean to confine myſelf merely to the motion. I am cautious of delivering my ſentiments in this Houſe, becauſe whatever is ſaid here, is wafted inſtantly to America. The arguments are either too frequently miſconceived, or miſ-ſtated; beſides there are many things which come out in debate, that are of little conſequence, are trifling in themſelves, and are rendered ſtill more ridiculous in print. I therefore clearly unite in ſentiment, with the noble Earl [Lord Temple] who ſpoke ſo ably, and ſo like a true friend to his country, the other night, that little is to be ſaid, and much remains to be done; for that nothing paſſes within theſe walls, that does not make its way to the other ſide the Atlantic, and has been converted to the purpoſes of counteracting the meaſure to which it related. It has been much inſiſted on this day, that the preſent is a legiſlative war, and therefore, that his Majeſty is thereby bound up from exerciſing his prerogative, and that the matter has been committed to Parliament. Suppoſing this to be ſtrictly true, has not the act alluded to created the very power under which the commiſſions are to act? Suppoſing it otherwiſe, will the crown be denied the exerciſe of its inherent prerogative in the preſent inſtance only, where it is moſt wanted? But, my Lords, the diſtinction of a legiſlative war is perfectly new. Was not the war relative to the ſucceſſion, and ſeveral others of the ſame kind legiſlative wars. May not every war be called ſo, which has been carried on by the expreſs deſire or conſent of Parliament. I do not, indeed, recollect one carried on ſince the Revolution without that ſanction.

This country, my Lords, is now arrived at a very tremendous criſis, juſt commencing a war of a nature entirely new; a war, that muſt neceſſarily be very expenſive, and the iſſue of which no man can foretel. It is true, that the kingdom will in a great meaſure be left defenceleſs; that we can have *no* certainty that France or Spain will *long preſerve* their preſent *pacific diſpoſitions;* that we have been reduced to the neceſſity of hiring foreign troops, and ſending to the ports of other kingdoms for tranſports. But how, my Lords, were

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theſe circumſtances to be avoided? America has rebelled; America is in arms; not defenſively, but offenſively; even if we were willing to ceaſe hoſtilities, they are not. We muſt therefore act with vigour, and we muſt, at leaſt, ſhew ourſelves determined to ſurmount their oppoſition. Happy would it be for us, my Lords, if any means could be deviſed of ending the quarrel without bloodſhed; but does the preſent motion tend to ſuch an effect? Without propoſing to ſave a ſhilling of the enormous expence the nation has been at, in providing and equipping the armaments to be ſent out this year to America, it agrees that the troops ſhould proceed; but when they ſhall arrive at the place of their reſpective deſtinations, they are to remain with their arms folded acroſs, inactive and unemployed. What then—commiſſioners are to treat with the Congreſs; they are to prepare a petition of grievances, which the petitioners are to bring to England. The Congreſs will laugh in their ſleeves at our folly; they will reprint their declaration of war under a new title, for that ſtates what they term their grievances. We ſhall loſe a campaign, of which they will take care to avail themſelves, and the next ſpring we ſhall have the whole to begin again. This, my Lords, would, I conceive, be the iſſue of the preſent motion; I therefore oppoſe it, as nugatory, ill-timed, and ineffectual.

Lord *Camden*. I ſhall not trouble your Lordſhips at this late hour of the night, in making obſervations on the many curious matters your Lordſhips have been now entertained with. I cannot help, however, making one remark, which perſonally applies to the noble and learned Lord; that is, his ſaying very *little* to the queſtion, and a *great deal* on other ſubjects, according to his Lordſhip's language, not at all connected with the preſent motion. I ſhall confine myſelf to that part of his Lordſhip's ſpeech which relates to the power of granting pardons. The noble and learned Lord ſurely miſunderſtood me, if he imagined that I queſtioned the King's power to pardon. No, my Lords, what I contended was what I pledge myſelf to your Lordſhips that I ſhall be able to prove, that the King cannot pardon in the lump, without the aid of Parliament, offences againſt the ſtate; much leſs can he pardon or agree to any terms ſhort of the claims and conditions which Parliament have defined to be the true baſis of conciliation. The noble Lord, by the pains he has taken to defend the act, ſeems to be the father rather than the caſual defender of it. He ſays, that the commiſſioners will take care not to tranſgreſs the limits of their commiſſions. Will his Lordſhip, or any other noble Lord in this Houſe, riſe

riſe and tell me that the latter extends an inch farther than the mere power of granting pardons, on terms of ſubmiſſion, by the people of America laying down their arms, and throwing themſelves *unconditionally* at the feet of this country. This then being the true ſtate of the caſe, it brings me round to the point I ſet out from; which is, that the preſent motion is become neceſſary, to prevent the further effuſion of human blood, and as the means of putting an end to a war which muſt inevitably bring on the deſtruction of either, if not of both countries; it will ſupply the defect of the bill I have been now commenting on; it will be the means of drawing forth ſpecifications from the parties of their reſpective claims, and will conſequently lay a foundation for treaty, which can be the only ſafe road to peace and conciliation; whereas the clauſe in the capture act is nugatory and deluſive. It leaves the matter juſt as it found it, according to the learned and noble Lord's own ideas; for if the King could delegate the power of pardoning and receiving ſubmiſſions, the act of Parliament ſays no more; and as to any power of conceding or conciliating upon terms ſhort of unconditional ſubmiſſion, which is an explanation too improbable for your Lordſhips to look for, unleſs preceded by actual conqueſt; his Lordſhip, I dare ſay, on reflection, is perfectly ſatisfied that no ſuch power is contained or delegated by the clauſe in queſtion.

Lord Viſcount *Weymouth*. My Lords, a queſtion has been preſſed by a noble Lord near me [Lord Lyttleton] relative to the preſent diſpoſition of the courts of Verſailles and Madrid, which I do not think myſelf at all bound to anſwer, as a member of this Houſe; nor in any other capacity, unleſs called upon by an addreſs to the crown for papers. I am happy, however, to have an opportunity of removing the doubts ſuggeſted by the noble Lord, by aſſuring your Lordſhips, that at no time within my knowledge or recollection had this country leſs reaſon to be jealous or ſuſpicious of the diſpoſitions and intentions of thoſe courts than at preſent. His Majeſty's miniſters have received repeated aſſurances, accompanied by the moſt unequivocal proofs, of their pacific intentions; and I am further convinced, that, although they ſhould have entertained ſentiments diametrically oppoſite to thoſe they profeſs, they have it no more in their power than in their inclination, to effectuate any meaſure which might be the means of involving this country in a war, or of impeding the plan of operations deſigned to be carried into execution, for the purpoſe of reducing our colonies to a ſtate *of conſtitutional* obedience to the power and government of this

this country. The noble Duke who made the motion had ſtated a fact relative to two French gentlemen arriving in the rebel camp, and, after having an interview with the general, of their proceeding to the Congreſs at Philadelphia. I have heard that there were two perſons at the head quarters at Cambridge of the deſcription the noble Duke has mentioned; but when I heard it, I was of the ſame opinion as now, that their preſence there proceeded from motives very different from thoſe I hear aſſigned this day. I looked upon it that they were gentlemen who were making a tour of the American continent for their amuſement; or that they were merchants, who went there to negociate matters in the way of trade, on their own private account.

The Duke of *Grafton*. My Lords, I have long obſerved, that *ſome perſons*, from long experience in the modes of controverſy adopted in the courts below, where matters are frequently repreſented in every light but the true one, have acquired a knack of holding up the weak parts of a debate ludicrouſly; and when they find themſelves preſſed in argument, reſort to ridicule, in order to draw the attention of the Houſe to extraneous matter. Thus the noble and learned Lord who ſpoke lately [Lord Mansfield] has claimed a kind of triumph, by commenting upon every thing which ſeemed not immediately to relate to the motion now before your Lordſhips, and in the very ſpirit of the conduct he has reprehended in others, has ſat down without ſaying any thing, or next to nothing, on the queſtion under conſideration. I differ very widely from the learned and noble Lord; for I ſhall ever be of opinion, that every matter connected with the preſent cauſe of diſpute with America, the different meaſures which aroſe in conſequence of that diſpute, and the conduct of that war, by which the friends and ſupporters of adminiſtration mean to terminate it, are all ſubjects well worthy of your Lordſhips' conſideration and inveſtigation; for it is evident, that thoſe ſeveral objects are not ſeparate diſtinct, but form one great whole, which cannot be properly examined or diſcuſſed, unleſs you conſider its ſeveral parts at one view. I confeſs, my Lords, that I find myſelf much hurt to perceive a queſtion of ſuch immenſe importance treated in ſo ludicrous and trivial a manner. I therefore truſt that your Lordſhips will impute any warmth I may have betrayed on the preſent occaſion purely to the cauſe I have now mentioned. I hope I have too great a reſpect for your Lordſhips, to offer any motion to your conſideration which I thought did not merit the attention of Parliament; and, I own, I cannot avoid being much ſurprized, that an

attempt

attempt to have it laughed away ſhould be made; when I am conſcious that I took every poſſible precaution in my power, to frame it in ſuch a manner as to leave the ſubject open, and not, by narrowing it, preclude every part of the Houſe, to unite on ſome general principle, which might, on the onſet, be the means of putting a ſpeedy ſtop to the further effuſion of human blood. But, my Lords, nothing which has happened on the preſent occaſion can induce me to deſiſt from what I have ſo ſincerely at heart, as the reſtoration of peace. I am willing to give up any part of the motion which may ſeem objectionable to thoſe who *only* have it in their power to give it effectual ſupport. I am ready to alter, omit, or amend, ſo that the principle of conciliation, which was my motive for ſubmitting it to your Lordſhips, be preſerved. I am deſirous, my Lords, in conformity to what I ſaid on the opening of my motion, that it be ſent to a committee to conſider of it, and report their opinion thereon to the Houſe. And I once more *conjure* your Lordſhips to reflect, that the honour of Parliament, the proſperity and deareſt intereſt of both countries, the lives of thouſands of Britiſh ſubjects are at ſtake, that the preſent is probably the only moment you will ever have to ſnatch them from the ruin which will otherwiſe inevitably await them, and that the conſequences of neglecting this opportunity will be the ſource of endleſs mourning and lamentation to ages yet unborn.

The Houſe divided: contents 28, proxies 3—31; non-contents 71, proxies 20—91.

March 15.

Private buſineſs. Adjourned to the 18th.

March 18, 19, 20, 21, 22.

Private buſineſs. Adjourned to the 25th.

March 25.

Bills paſſed by commiſſion. Adjourned to the 27th.

March 27.

Earl of *Effingham* moved, That a liſt of ſuch veſſels, with their cargoes, as had been cleared out of the port of London for America, and of ſuch licences as had been granted, purſuant to an act for prohibiting all commerce with America, be laid before the Houſe.

Motion agreed to.

[This motion requires ſome explanation. An act had paſſed, prohibiting all trade and intercourſe with the Colonies. A clauſe in that act permitted ſhips in his Majeſty's ſervice, and others laden with ſtores for his Majeſty's uſe, or *with proviſions* for the fleet and army, or proviſions for the inhabitants

inhabitants of ſuch places as were actually in poſſeſſion of the King's troops. But it was provided, that ſuch ſhips were to take out licences from the admiralty; or, if in America, from the admirals, generals, or governors of provinces, otherwiſe they were liable to ſeizure. About the middle of March it was whiſpered, that great quantities of goods had been licenſed and ſhipped contrary to the act, and the firſt public notice taken of it was this motion.]

March 28, 29.

Private buſineſs. Adjourned to April 1.

April 1.

The ſame.

April 2.

Bills paſſed by the King.

The Lord Chancellor moved, That Elizabeth, Ducheſs Dowager of Kingſton, do ſurrender herſelf at the bar of this Houſe, in Weſtminſter-hall, on the 15th inſtant. A ſhort converſation enſued, into whoſe hands ſhe ſhould ſurrender herſelf? Lord Mansfield ſaid, every priſoner, while at the bar, was in the cuſtody of the black rod. It was doubted, if the trial laſted more than one day, whether the priſoner ſhould be committed, and where? Lord Mansfield ſaid, it was time enough to conſider of that; ſhe muſt be taken into the cuſtody of the black rod when ſhe ſurrenders.

April 3.

Private buſineſs. Adjourned to the 12th.

April 12.

Nothing material.

April 13.

Ordered, That ſhould the Ducheſs of Kingſton's trial continue more than one day, ſhe remain in the cuſtody of the gentleman uſher of the black rod. Adjourned to the 15th.

April 15, 16.

Trial of the Ducheſs of Kingſton in Weſtminſter-hall. Adjourned to the 19th.

April 19, 20.

The ſame. Adjourned to the 22d.

April 22.

Trial finiſhed. Adjourned to the 26th.

April 26.

Private buſineſs. Adjourned to the 29th.

April 29.

No debate.

April 30.

Private buſineſs.

May 1, 2, and 3.

The ſame. Adjourned to the 6th.

May 6, 7, 8, and 9.

No debate.

May 10.

The Duke of *Mancheſter*. I have preſumed to requeſt your Lordſhips' attendance this day, for which I ought to make an apology, as it is on a motion of mine, very unconcerted; ſome few friends only had I an opportunity of communicating it to. But, my Lords, the buſineſs does, in whatever light it is viewed, appear ſo intereſting, ſo important to the Britiſh nation, that as the matter ſtruck me, I could not reconcile it to myſelf to withold it from this Houſe. My Lords, I have not the arrogance to think that what I ſhall ſubmit to your Lordſhips, has eſcaped the vigilance of all your Lordſhips' judgments: I have not the vanity to imagine, that the arguments my circumſcribed talents may ſuggeſt to me to uſe, can have the good fortune to perſuade the majority of this Houſe, unleſs they ſhould meet with the ſupport of men of greater weight. Some there are who chance to be abſent, whoſe great authorities I muſt lament the loſs of. But, my Lords, if what I may offer ſhould throw any light on a ſubject as intereſting as ever aroſe ſince Britain has extended her power beyond the confines of the iſle, I ſhall at leaſt have the ſatisfaction to think I have not buried my ideas; I have not been wanting in that duty, which from the rank we hold in life is mine, is that of every Lord in this Houſe. My Lords, for a paltry ſet of words, for an unreaſonable claim of power, for a faſcinating aſſertion of impracticable authority, for an airy nothing, a viſionary ſhadow of ideal revenue, impoſſible to be raiſed but by the conſent of that people whoſe contributions we ſo much thirſt after, and whoſe conſent we do deſpiſe, has Britain been duped into an unnatural war, where victory or defeat muſt each enfeeble this lately great empire: a war carried on againſt a part of our fellow-ſubjects, whoſe numbers, at leaſt, equal a fifth of the whole, and who in extent of country ſo far exceeds the ſize of Britain, that the compariſon of her is but as a ſpeck in the diſk of the ſun. I will not dwell on the diſadvantages our army muſt labour under from the far-extended diſtance of the war; a common map, to the commoneſt underſtanding, muſt demonſtrate

monſtrate more than rhetoric can paint. But, my Lords, it has been your pleaſure to enter into this war; the matter has been laid before you, and often has been debated, and your Lordſhips, in your judgment, have deemed it neceſſary to correct the ſaucy freedom of high-minded ſons, grown up to manly age, to check in your American children that independent ſpirit, that ſtrange love of liberty, which, where permitted to take root, does ſo infatuate mankind, and which has long been the honour and ſafety of this iſle. You have thought it right to curb their ideas of property, which lead them to imagine we have no right to take any part of that property from them, without their free conſent. My Lords, I reſpect the deciſions of the majority of this Houſe; but if thoſe deciſions may have ariſen from any peculiar circumſtances, now no more exiſting; if they may have ſprung from falſe or miſtaken intelligence; if the whole diſpoſition of things, from various accidents and events, may have become totally different; perhaps it may not be unworthy your Lordſhips' wiſdom, to reconſider what you have decided, to reviſe your judgments, to retrace the ſteps we may too haſtily have trod. My Lords, in the beginning of our unhappy conteſts with America, thoſe who debated the matter on the ſide of the ruling power of government, ſtated, not only the neceſſity, but the great facility of forcing to a compliance with all the demands of government, ſuch colonies as ſhould dare to offer their vain reſiſtance: we are told they had not ſtrength for war, they had not means of war, they had not union among themſelves; that they wanted money, that they wanted diſcipline, that they wanted officers, and, to ſum up the whole, to make them contemptible even as ſubmiſſive ſubjects, that they poſſeſſed not courage to face an Engliſh ſoldier, whoſe birth on this ſide the Atlantic endowed him with that intrepid ſpirit, an American, whom even neceſſity had inured to toils, could never aſpire to reach The deciſions, my Lords, of adminiſtration, gave them union; the refuſal to hear their petitions, combined the whole in a firm knot of calm, deliberate, deſperate determination to reſiſt. Money, which is but the type of property, was ſoon ſupplied by a type of equal uſe; even perſonal freedom gave way to public ſecurity, and perſonal property was ſacrificed to the neceſſities of the riſing ſtate. The diſaffection was general, and Britiſh governors now no longer adminiſter law in Britiſh America. How true the charge of wanting martial ſpirit proved, let thoſe relate who firſt ſaw the blood of civil war

ſpilt at Lexington. To thoſe who ſaved the honour of the day, at the bloody forcing of the lines on Bunker's Hill, to thoſe who ſaw the Britiſh valour check'd, may I ſafely refer for a full confutation of the abſurd ſuppoſition, that men deſcended from the ſame line as ourſelves, whoſe all is at ſtake, who think their cauſe juſt, would, like the moſt enervated Aſiatic tribe, yield a bloodleſs victory. My Lords, the hiſtory of human nature teaches us, that the greateſt talents often lie hid in the moſt diſguiſed obſcurity, till accident, till the buſtle of the times, calls forth the genius, and lights the æthereal ſpark; then do theſe metors caſt an unexpected blaze: an apothecary's late apprentice leads forth armies, diſplays the warrior's ſkill, the warrior's intrepidity, and meets a death a Roman might have envied: another who, in peaceable times, might have never roſe to greater praiſe than a jockey's ſkill, amidſt every rigour of an inclement ſeaſon, in an inclement country, aſtoniſhes us with a march a Hannibal would have admired, and carries the alarm of war to the walls of a great city, which muſt probably have yielded to the boldneſs of the undertaking, had not a Carleton ſaved it. I am not making a panegyric on American proweſs, though great atchievements, even by an enemy, will ever meet my praiſe. But, my Lords, theſe are facts incapable of diſpute. To come now, my Lords, to that which has caſt the deepeſt ſtain on the glory of the Britiſh arms, to that which muſt rouze the indignation of all who feel for her diſgrace: the army of Britain, equipped with every poſſible eſſential of war, a choſen army, with choſen officers, backed by the power of a mighty fleet, ſent to correct revolted ſubjects, ſent to chaſtiſe a reſiſting city, ſent to aſſert Britain's authority, has for many tedious months been impriſoned within that town by the Provincial army, who, their watchful guards, permitted them no inlet to the country, who braved all their efforts, and defied all their ſkill and abilities in war could ever attempt. One way, indeed, of eſcape was left; the fleet is yet reſpected; to the fleet the army has recourſe; and Britiſh generals, whoſe names never met with a blot of diſhonour, are forced to quit that town which was the firſt object of the war, the immediate cauſe of hoſtilities, the place of arms, which has coſt this nation more than a million to defend. We are informed of this extraordinary event by a gazette, publiſhed by authority from government, in which it is related that general Howe had quitted Boſton; no *circumſtances* mentioned to palliate the event, no veil but that

that of ſilence to caſt over the diſgrace. But, my Lords, though government account is ſhort and uncircumſtantial, yet private intelligence, public report, on which, till it is with authenticity denied, I muſt rely, inform us, that General Howe quitted not Boſton of his own free will, but that a ſuperior enemy, by repeated efforts, by extraordinary works, by fire of their batteries, rendered the place *untenable*. I mean not the leaſt moſt diſtant cenſure on him; his reputation ſtands fixed on too firm a baſis to be eaſily ſhaken; I do believe all that in that ſituation could by the beſt officers be attempted was tried to the utmoſt. But, my Lords, circumſtances obliged him to quit that poſt he could not *poſſibly maintain*. The mode of the retreat may to the General do infinite honour, but it does diſhonour to the Britiſh nation. Let this tranſaction be dreſſed in what garb you pleaſe, the fact remains, that the army which was ſent to reduce the province of Maſſachuſet's Bay has been driven from the capital, and that the ſtandard of the Provincial army now waves in triumph over the walls of Boſton. My Lords, ſo extraordinary an event, ſo contrary to all the ſanguine promiſes of adminiſtration, calls for a full explanation; the public have a right to expect it, your Lordſhips have a right to demand it. If miniſtry are ſtill determined to keep ſilence, they make themſelves reſponſible for all the accidents of the war. My Lords, the buſineſs I have to trouble you with this day is, to deſire a fair ſtate of the matter. It is not vain curioſity prompts; it is in order that this Houſe, knowing all the circumſtances that attended this tranſaction, may be enabled, as his Majeſty required of them in his ſpeech at the opening of the ſeſſion, to give advice becoming the importance of the occaſion. Were it for my own ſatisfaction, I might reſt contented with the detail that from private accounts I have ſeen; I could be content with knowing that the fire from the enemy's batteries, which began on the 2d of March, threatened ruin to the town, that the ſhells were ſo well directed as to make it demonſtration that the engineers of the enemy were well verſed in the ſcience of deſtruction. That the continuation of that bombardment rendered it abſolutely neceſſary for the Britiſh army to make ſome deciſive effort; that the reſolution taken was worthy the name of Howe, worthy the Britiſh ſpirit. A ſtorm aroſe, baffled their efforts, and delayed the attack; a ſtorm fortunate, perhaps, for this country, which preſerved for nobler ends many brave men, who muſt have periſhed in an at-

tempt exceeding human power. When the ſtorm ceaſed, a new work appeared, of ſuch amazing ſtrength, raiſed as if by the enchanter's wand, in the ſpace of a night, that wiſdom forbade the attack. One hope remained to ſave the Britiſh army, and a retreat by ſea was found neceſſary. To refer to the Gazette, government there tells us, with all the cool indifference with which might have been related the removal of a regiment in England from one place of country quarters to another; that on the 7th of March, General Howe took a reſolution to remove from Boſton to Halifax; that the embarkation was effected on the 17th, without the leaſt interruption from the rebels. My Lords, I do admit the fact; no ſhot was, I believe, fired from the enemy during the embarkation. Whether this aroſe from policy, whether from an unwillingneſs unneceſſarily to expoſe the Provincial army to the deſperate valour of the Britiſh troops, whom neceſſity of ſelf-defence, whom the mortification of being forced to quit the place, whom ſhame, whom every honourable paſſion muſt have armed with more than common courage, or whether by ſome tacit convention between the Generals of the oppoſite armies, which might be very proper, remains untold. But the important fact is told, that Britain has loſt the only place of arms from whence ſhe could with advantage begin her operations againſt the northern colonies; and that Waſhington, with his army whole, entire, unchecked, unbroken, does poſſeſs it. It matters little whether General Howe is gone to Halifax with a few more guns or a few leſs; ſome heavy artillery, I am informed, was left; but I will venture to aſſert, that no army, ſo circumſtanced, ever did make a retreat without ſome loſs and damage of various neceſſaries of war. My Lords, I wiſh not to excite any unneceſſary, unpleaſant feelings; but, my Lords, every ſeaman I have ſpoken with is in pain for that fleet, ſo crouded, ſo ſhort of proviſions, forced into a boiſterous ſea in the moſt boiſterous ſeaſon. The very ſtorm that was ſo great in the harbour as to prevent the attack of the enemy's batteries, juſtifies the dread of what may happen. Suppoſe the army ſafe at Halifax, can it be ſuppoſed they are in a ſituation capable immediately to take the field? Thus then is the great power of the northern colonies, againſt whom was particularly pointed the thunder of this country, freed from its preſent vengeance. It cannot be doubted but that this retreat is of great advantage to the *enemy, is a ſubject* of triumph. Will your Lordſhips then not

not think that the ſlight manner this matter is related to the public is a ſcandalous inſult, is a neglect of that public whoſe blood and treaſure are laviſhed without fruit? I do hope we ſhall at laſt rouze, and ſee with our own eyes, and hear with our own ears, not place any longer implicit confidence in men who, whatever their intentions may have been, have hitherto not ſhewn that they poſſeſs abilities either to maintain peace, or well conduct a war. Permit me now, my Lords, to take a ſhort review of the preſent ſtate of America. The army now gone from Boſton, the wiſeſt ſtateſman cannot now for a certainty declare that his Majeſty has a regiment in poſſeſſion of a ſingle poſt, ſave that which has wintered in Nova Scotia. Montgomery's death preſerved for a time Quebec, yet there are accounts, whoſe authority there is no reaſon to doubt, of the beginning of February, that the troops ſtill lay before the place, that the deſign of attacking it was not abandoned, that reinforcements were coming, that the object was to place a garriſon in it ſo ſtrong as would not be eaſy to remove, that at Montreal no doubt was made of its being forced to yield. The retreat from Boſton leaves Waſhington at liberty to ſend large ſuccours, whither the deſtination was is unknown; but there is intelligence that, the very day our troops quitted Boſton, a body of ſeveral thouſand men was detached from the camp. The relief ſent from hence of Brunſwick and Hanover troops, if deſtined for Quebec, cannot arrive there till the breaking up of the ice affords a paſſage up the river, which, from ſeamen, I am told, ſeldom happens till the end of this month. The ſtroke muſt probably be decided ere they poſſibly can reach the place. From Halifax, whoſe ſtrength is trifling, and whoſe ſituation admits not any thing to be done by advancing into the country to the Floridas, nothing remains to his Majeſty's arms but the roving parties with which Dunmore continues his prædatory war. I will paſs no cenſure on that noble Lord; but I could wiſh he had acted with that generous ſpirit that forbade Clinton uſeleſsly to deſtroy the town of New York. My Lords, Clinton viſited New York, the inhabitants expected its deſtruction; Lee appeared before it with an army too powerful to be attacked, and Clinton paſſed by without doing any wanton damage. The friends of government, as they are termed, did attempt ſome riſings, the Congreſs put them out of their protection, individuals raiſe armies, and all commotions in favour of government are cruſhed in their birth. Georgia, that, till lately, took no active

part, that laſt year you aſſiſted with your money, has now declared againſt you; and as they came late into the ſervice, ſo they ſeem willing to be active in diſtinguiſhing themſelves. Your marines attempt to land, they are driven to their boats, and burn the Engliſh traders. In Carolina all is armed, all is ſtrong: the laſt effort in favour of government, an attempt by a Colonel Maſon, with a conſiderable body of men, called regulators, is reſiſted by an individual, who arms his followers, meets and defeats him totally, and numbers are thrown into gaol. Thus, from north to ſouth, every place preſents an enemy; the coaſt on which your troops are to land is ravaged, is made a wilderneſs, where not an army of locuſts would ſubſiſt. You are therefore now to begin the war with an enfeebled army, with the flower of your troops checked, baffled, forced to retreat, you are to attempt to conquer the continent of America: it is as much a war of conqueſt as if you meditated an invaſion on France or Spain. On German mercenaries, on foreign auxiliaries, are you to depend for ſucceſs in this invaſion, on troops not intereſted in the cauſe. With theſe troops ſo numerous, ſo ſecured by treaty to act in a body, is the Engliſh army to ſerve, who will probably be inferior to them in number; for from the Engliſh muſt detachments be made, as the ſervice of the war may require. My Lords, I mean no reflection on theſe troops, but muſt obſerve, that ſucceſs has ſeldom attended where thoſe moſt intereſted in the cauſe do not fight their own battles, and from the number of the German troops they muſt probably be maſters of the operations of the war. I cannot conclude without a word to the commiſſion mentioned in the Gazette: what paſſes the great ſeal can, I ſuppoſe, be no ſecret; but, though I do not know the contents, I do not conceive what powers can be given the commiſſion, without ſome previous aſſiſtance from Parliament, that can be *material*. Will the great ſeal, in face of Parliament, give up any of that authority Parliament has been ſo anxious to aſſert? Yet, without this, peace cannot be made; or does it merely contain a power of pardoning ſuch as may ſue for and be deemed deſerving of mercy? Pardon, my Lords, was never ſued for by thoſe who, convinced their cauſe was juſt, flushed with ſucceſs, conqueſt attending on their arms, with troops more numerous than thoſe that are to oppoſe them, have, in the common courſe of human probability, hope of continued victory. I will add no more, *but that* if this unnatural war is long thus ably and obſtinately

nately carried on, it is not from Britain America muſt ſeek for pardon, but Britain muſt from America aſk forgiveneſs of the wild ravage her unreaſonable claims have made. What I have ſaid to you, my Lords, can ariſe from no private view, but merely from a ſenſe of public duty: I wiſh to ſee this empire not diſmembered; I wiſh to ſee our Sovereign's diadem blaze with every glory which firſt encircled his royal head. His Grace moved, "That an humble addreſs be preſented to his Maieſty, that he will be graciouſly pleaſed to order the proper officers to lay before this Houſe copies of all diſpatches received from General Howe and Admiral Shuldham, ſince the firſt day of March laſt."

Earl of *Suffolk*. The true grounds and cauſes of the preſent conteſt with America have been ſo frequently and ſo fully diſcuſſed, that I ſhall not trouble your Lordſhips to follow the noble Duke through the wide circuit he has taken this day: your Lordſhips have already determined ſo often in favour of the juſtice and neceſſity of proſecuting the preſent war againſt our rebellious ſubjects in that country, that there can be little occaſion to enter at preſent into any review or freſh diſcuſſion of ſo trite a ſubject: it is not, therefore, my Lords, to controvert matters that have been already decided that I riſe, but to give a direct negative to the preſent motion, becauſe I am of opinion that it cannot be ſafely complied with, conſiſtently with the intereſts of this country and the ſucceſs of our future operations. The letters deſired, my Lords, are not merely confined to the profeſſed objects of the preſent motion; they contain matters of great importance, as well in relation to paſt tranſactions as to plans meant to be carried into execution; theſe again are ſo blended and connected with the account of the evacuation of Boſton, that it would be impoſſible to ſeparate one from the other, without laying before your Lordſhips what would be extremely improper for public inſpection at this ſeaſon, becauſe it might be the means of defeating thoſe meaſures which the general and admiral have determined to purſue. Nothing, I do aſſure your Lordſhips, would give me greater ſatisfaction than to comply with the requiſition now made, if it could be done with prudence and ſafety; not to gratify a mere idle curioſity, but to ſhew your Lordſhips the abilities of the gentleman who comanded the troops, and to convince you that all the reaſonings now ſo ſtrongly urged have no manner of foundation to ſupport them. Were it proper to lay before your Lordſhips thoſe accounts, you

would

would not only be ſurprized how ably the whole affair was conducted, but you would have reaſon likewiſe to have the moſt perfect confidence in operations ſo well planned and ſo well directed. The noble Duke ſuppoſes the account in the Gazette to contain actual miſrepreſentations, or a ſuppreſſion of facts; but I do aſſure his Grace he is entirely miſtaken: it is the buſineſs of that paper to ſtate facts, which I contend it has very faithfully, and that the General, as therein ſet forth, literally took the reſolution of quitting the town on the 7th, and actually evacuated it, and embarked on board the fleet on the 17th, without any interruption from the rebels; that he carried off his artillery, military ſtores, all his baggage, and his very horſes; that he took ſuch of the inhabitants as ſought his protection aboard, with all their moſt valuable effects, and that ſpecies too which might have been of the greateſt uſe to the rebels. The noble Duke ſuppoſes that this ſtep will break all our future operations during the preſent campaign; but I will inform his Grace, that it was never intended to begin the war in that quarter, ſince the great change which has happened in our affairs. While the ſpirit of rebellion was confined to the province of Maſſachuſet's Bay, it could properly be the only ſeat of war, or coercion; but ſince the defection became more general, ſo falſe an idea never prevailed; in proof of which, I do aſſure your Lordſhips, that the General, ſo early as the month of October, received inſtructions to quit Boſton, whenever he thought proper; in this light, therefore, the evacuating Boſton can appear but a ſhifting of poſition, for the purpoſe of carrying into execution meaſures already concerted and agreed on; the firſt object of which is to ſecure Halifax againſt any attack from the rebels, and whither the fleet and army are now deſtined. The noble Duke has dwelt greatly on the native proweſs and martial diſpoſition of the rebels. I am not very much inclined to throw out reflections upon bodies of men, or to ſuppoſe that any of the ſubjects of this empire are deficient in courage; but farther than that general ſuppoſition, I confeſs I cannot diſcover any proofs of ſuperior courage the rebels have diſplayed, either on this, or any former occaſion: they were certainly five times the number of the King's troops; they enjoyed every advantage of ſituation; and yet, for all that, they permitted the troops to embark, and carry off every thing they deſired, without the leaſt moleſtation; their great knowledge in the military art has likewiſe been loudly trumpeted; but what has been the

the fruit of it? The expertneſs of their engineers was ſuch, that they threw a bomb into the town which wounded ſix perſons, two of whom are ſince dead. The noble Duke ſays, that the miſconduct of thoſe who negotiated the Heſſian treaty was the reaſon that the Heſſians have not ſailed from Spithead. I do aſſure your Lordſhips that the fact is entirely otherwiſe; for however willing the Heſſian general might be to wait for the arrival of the remainder of the troops which were to ſerve under his command in America, as ſoon as he received a meſſage from his Majeſty to proceed to the place of his deſtination, he inſtantly complied, without expreſſing the leaſt unwillingneſs or diſſatisfaction. The noble Duke ſays, there muſt have been a convention between general Howe and the rebel commander; which, I do aſſure his Grace, was by no means the caſe, no convention, ſtipulation, conceſſion, or compromiſe whatever, having been made. The general thought proper to ſhift his poſition, in order, in the firſt inſtance, to protect Halifax; and after that object was ſecured, to penetrate by that way into the interior country, and purſue his future intended operations; when, inſtead of a diſpirited and enfeebled ſoldiery, I truſt your Lordſhips will be at once convinced, that the men will exert themſelves with the reſolution and ardour they have ever manifeſted in the purſuit of military glory, and that the general will exhibit the moſt full and ſatisfactory proofs, that his evacuating Boſton was the conſequence of a reſolution previouſly taken, on the wiſeſt and beſt concerted motives.

The Marquis of *Rockingham*. I was in the country when the gazette, containing the account now ſo warmly defended, fell into my hands; and though I had no other information to direct me, I confeſs it ſtruck me as equally ridiculous and improbable. Is there one of your Lordſhips, though nothing elſe had tranſpired relative to the tranſaction, can be perſuaded to believe, that the Provincial general would have ever permitted the evacuation in the manner related, if there had not been an underſtanding between him and the Britiſh commander in chief? But, my Lords, we are not left to grope our way in order to diſcover what really happened; conjecture alone, if exerciſed on ſuch circumſtances, would amount to proof poſitive; but there is no occaſion to rely upon conjecture or probabilities; there are ſeveral letters from officers on the ſpot, which all ſubſtantially contradict what your Lordſhips have heard this day; thoſe

thoſe letters may vary from each other in ſome particulars, but they all uniformly agree in one thing, which the noble Earl in office ſeems to be totally ignorant of; that is, that the troops were compelled, by the operations of the enemy, to take the reſolution of quitting the town; and that they were afterwards permitted to quit it unmoleſted by agreement: if there was no other proof but one, that alone would be deciſive to determine my judgment; the one I mean is, that the general and admiral only waited for a wind to waft them to the place of their deſtination when the account came away. Why not deſtroy the town in purſuance of the general inſtruction, when they thought proper to ſhift their poſition? Or if compelled to abandon it, why not raze it to the foundation, by way of retaliation? If there was no convention, no treaty or agreement, how will they anſwer to government this diſobedience of orders? But, my Lords, there are numerous accounts in town, ſome of which I have ſeen myſelf, from gentlemen of no leſs veracity than either the general or admiral. The account they give is ſhortly this: That on the morning of the ſecond of March, the garriſon diſcovered that a battery had been raiſed on Dorcheſter heights the preceding evening, which commanded the greateſt part of the town; that the next day [the 3d] the Provincials continued to fire on the town, and annoyed the garriſon and inhabitants extremely; that the ſituation of the troops now became extremely critical, as the fleet could give them no effectual aſſiſtance; that a council of war was held the ſame day, in which it was reſolved to attack the heights of Dorcheſter, in order to diſlodge the enemy, it being univerſally agreed that the town was no longer tenable, unleſs that ſervice was effected; that accordingly the proper diſpoſitions were made to carry on the attack the next morning, but that the general had been prevented by a very great ſtorm which aroſe; that on the next day [the 5th] the ſelect men went out to General Waſhington, to treat with him, and that after ſome meſſages had paſſed on both ſides, it was agreed on the 7th that the King's troops ſhould evacuate the town, in the manner which afterwards took effect; and that accordingly the troops and ſuch of the inhabitants as choſe their protection embarked on the 17th. If thoſe accounts are true, of which I have very little doubt, your Lordſhips will perceive, though poſſibly there might have been no formal convention, or capitulation ſigned, which I underſtood was avoided by the generals on both ſides, for particular

particular reaſons, that in whatever manner the buſineſs might have been negotiated, it had every ſubſtantial requiſite of a treaty or compromiſe, as much as if it had been ever ſo ſolemnly authenticated or ſubſcribed. The troops were permitted to evacuate the town without interruption, becauſe they engaged, on the other hand, not to burn or deſtroy it, either previous to their departure, or after they got aboard their ſhips. The noble Earl tells you, that the troops have proceeded to Halifax. I ſhould be glad to know what certainty he has that they can proceed there: I preſume the noble Lord is not ignorant how very difficult it is to navigate thoſe ſeas in that very tempeſtuous ſeaſon of the year, juſt at the time of the equinox, when a conſtant north-weſterly wind ſets in. I ſhould have imagined that no man in his ſenſes, ſo incumbered with military ſtores, cannon, paſſengers, troops, &c. would think of ſuch a meaſure, without he was drove to it by neceſſity; nor can I be perſuaded, that the admiral would have ever conſented to ſo raſh an act, upon mere motives of forwarding the future operations of the campaign. Only conſider a minute, my Lords, and you muſt tremble for the fate of both the army and navy: conſider how many thouſand perſons are aboard this fleet, and think what a dreadful circumſtance it muſt be, to have them forced to ſea in ſuch a climate, and ſuch a ſeaſon. I confeſs I tremble for their fate, and ſhould not be ſurprized to hear, by the firſt account received from that quarter, that they were either blown away to the Weſt Indies, or had all periſhed on the dreary coaſts of America. Suppoſing, then, that we had no account of the true motives which obliged the general to evacuate Boſton, charity would induce us to believe, that he would never riſque the lives, nay, the very event of the preſent campaign, perhaps of every future one, upon ſo ſenſeleſs, hazardous, and wanton a project. But, my Lords, if the gazette account bears every mark of abſurdity and improbability, the article which next follows it no leſs deſerves to be treated with contempt. It informs you, that a commiſſion is granted to Lord Howe and General Howe, to offer pardons and reſtore peace: that is, after the ſpeech announced that commiſſioners would be ſent out to treat with America, for the purpoſes alluded to, ſeven months are nearly elapſed, the winter and ſpring are ſuffered to paſs over, before you hear a ſyllable of the matter; and then, juſt at the entrance of the campaign, after the nation has been put to the expence of ſo many millions, the firſt

ſtep

ſtep towards peace and conciliation is taken. But this, my Lords, is merely to amuſe and deceive, and done purely with a view to perſuade the nation, that peace is in contemplation, in order to counterbalance the diſgrace the Britiſh arms have ſuffered. I am glad to hear of peace, at all events; though, when I firſt read the gazette of Saturday, I muſt fairly own I could hardly forbear laughing at the whole account, taken together. Another thing ſtruck me in the appointment of the commiſſioners. No man has a higher opinion of the bravery and military and naval ſkill of thoſe gentlemen than I have; but I confeſs I am yet to learn, if there be any ſerious intention in government to conciliate matters with America, the propriety of ſelecting them for the execution of ſo arduous and weighty an undertaking. I ſhould have imagined, that a fitter choice might have been made; or that others, more converſant in negotiation, would have been very properly added. On the whole, my Lords, I think the gazette does not contain information ſufficient to direct you in your future proceedings. I am ſatisfied that the troops evacuated the town by compulſion, not choice; and conſequently, that the preſent motion is abſolutely neceſſary, and as ſuch I ſhall be for giving it my hearty concurrence.

The Earl of *Effingham*. My Lords, that Boſton was not evacuated from the motives ſo ſtrongly urged by the noble Earl in office, I truſt your Lordſhips are already perfectly ſatisfied of. I ſpeak with great diffidence on military matters in the preſence of ſuch of your Lordſhips as, from your long experience, are enabled to be ſo much better judges; but as nothing has been offered on that part of the ſubject, your Lordſhips will, I hope, permit me to ſtate my reaſons why I think it was totally impracticable for the troops to remain any longer at Boſton with ſafety, or to quit it without burning the town, or ſuffering the total loſs of their rear guard. The battery opened on Dorcheſter heights, ſupported by that long ſince raiſed on Phipps's farm, commanded the greateſt part of the town, and upwards of two-thirds of the beach, from which the army was to embark. On the other hand, the batteries on Noddle's Iſland, rendered the ſtate of the fleet ſo very uneaſy, that it was impoſſible for either the army or navy to remain any longer in their former ſituation without being compelled to diſlodge the enemy. This was what the Provincials wanted; becauſe, ſhould the attack miſcarry on the part of the royal army, its deſtruction would be inevitable, while all the Provincials riſqued was the loſs of a few

few men, and returning to their former ſtations. The general was perfectly apprized of this; and accordingly, after taking the ſenſe of a council of war, determined to attack the heights of Dorcheſter. Your Lordſhips have been informed that a ſtorm prevented him, and I believe it was very fortunate it did, for in all probability it would have terminated in the deſtruction of the whole army. This intention being thus abandoned, there remained but the alternative of entering into a convention, no matter whether by writing or parole, or of ſetting fire to the town, and under the interruption ſuch a conflagration muſt have occaſioned, eſcaping aboard the ſhips and tranſports lying in the harbour. Even in this event the ſlaughter muſt have been great, and the whole rear guard, as I obſerved before, muſt have been ſacrificed to the preſervation of the reſt of the army, and probably the body poſted at Bunker's Hill would have been made priſoners. This was the alternative left to General Howe, and fortunately he embraced that part of it, which was the means of ſaving the town and the troops under his command. Any perſon in the leaſt converſant in military matters, and who has ſeen the plan of Boſton and its environs, will immediately perceive, that if ſome treaty had not taken place, this or ſomething ſimilar to it would have been the conſequence. To endeavour, therefore, to miſlead your Lordſhips with any idea that the army came off unmoleſted in triumph, is too groſs even to call for detection. To make one obſervation more: will the noble Earl pretend to ſay, that it was from motives of tenderneſs that Boſton was not burnt, or that it was impracticable to do it without loſs? His Lordſhip will hardly ſeriouſly affirm the former to be the caſe; and if he ſhould inſiſt on the latter, I will inform his Lordſhip, that nothing on earth could be more eaſily effected; for if the army had nothing to fear from the Provincials in the event of an open deliberate embarkation, they would ſtill have leſs to fear by ſetting the town on fire, for they might have filled the houſes with combuſtibles, ſo as totally to have blown up and deſtroyed it. But, my Lords, ſuppoſing that the gazette repreſented matters as they really happened; ſuppoſe that the troops embarked in the face of the enemy, without compromiſe, and without interruption, will any noble Lord in office riſe and ſay, that he believes General Howe is ſafely arrived at Halifax? Is it not much more probable that the fleet is blown to Antigua, is ſeparated and diſperſed by ſtorms, or is now toſſing about in the Atlantic

Atlantic ocean? If even the troops ſhould have an expeditious and favourable voyage to Halifax, how will they draw proviſions from a country far from being fertile, and at preſent much exhauſted from the frequent ſupplies ſent to Boſton? or allowing them to be ſafely landed, and plentifully provided with all the neceſſaries of life, how will they be able to maintain their ground againſt a ſuperior force? Poſſibly Halifax will be in the poſſeſſion of the Provincials before they reach it; but granting it ſhould not, it is well known that Halifax has no regular defences; that it is only ſurrounded by a ditch, ſtrengthened by palliſadoes; and that the buildings are all compoſed of wood; ſo that taking the matter in any light, the meaſure is full of danger; for either the ſuperior force of the Provincials may eaſily force the works, or if they chuſe to act more cautiouſly, they may with little trouble, and leſs riſque, reduce the wooden buildings to aſhes. Thoſe, my Lords, are no more than ſo many ſuppoſitions, far from being ſupported by any grounds of probability; for I doubt that the troops will ever reach Halifax; and I am well perſuaded if they do, that, as at Boſton, adminiſtration will be obliged to ſupply them with proviſions from Leadenhall-market.

The Lord *Wycombe* [Earl of Shelburne.] My ſentiments reſpecting the preſent unnatural war carrying on againſt America, are already ſufficiently known. I have all along looked upon it to be cruel, unjuſt, inexpedient, and oppreſſive; and I am confident, if obſtinately purſued, that it will end in the deſtruction of both countries. For the reaſons that have been already ſo ably ſtated by the noble Duke who made the motion, I came down this day to ſecond it. I think it highly neceſſary that your Lordſhips ſhould be fully informed; otherwiſe, how is it poſſible you can be enabled to give your advice to your Sovereign? If I even entertained a better opinion than I do of the abilities of thoſe in power, I ſhould ſtill think that they do not poſſeſs all the wiſdom of the nation. Your Lordſhips are the conſtitutional great council. It is your duty and your province, as the hereditary counſellors of the Crown, to conſult together, to deliberate and adviſe. How is it poſſible that you can diſcharge this important truſt without proper information, and a previous knowledge of the facts on which you are to determine? The noble Earl ſays, the plan of future operations is ſo blended and mixed with the mere detail of the evacuation

cuation and embarkation of the troops, that it is impoſſible to give one without diſcloſing the other. This, my Lords, is a new language to me, either as an official man or a member of this Houſe. I know, when I had the honour to ſerve his Majeſty, I looked upon it as an eſſential part of my duty, and was prompted by inclination, to give every poſſible information to your Lordſhips whenever you called for it. I was always proud of an opportunity of gratifying the Houſe in this reſpect, becauſe I looked upon it to be the beſt teſt of the purity of my intentions, how much ſoever it might tend to impeach my judgment. This I know was the uniform language of miniſters during the late reign; and I remember too their conduct exactly correſponded with their profeſſions. I recollect a particular inſtance of it reſpecting Abercromby's defeat in the height of the late war, when Lord Chatham cauſed every particular of that melancholy event to be announced in the Gazette, in the very terms he had received it. He did not confine himſelf to the mere fact, that an attack had been made, and that it proved unſucceſsful; no, my Lords, he committed himſelf to the public. He did not look upon himſelf reſponſible for victory; he laid the whole detail open to the inſpection of the nation at large, and by ſo doing he enſured that confidence which a contrary conduct would have certainly deprived him of. It has been reſerved, my Lords, for the preſent miniſters to either withhold all information, or ſuppreſs every thing that does not anſwer their immediate purpoſes. They refuſe to tell you any thing; or if they do, they will only tell it you in their own way. The Gazette ſays, that General Howe embarked without the leaſt interruption. Granted: but does it ſay or aſſign any reaſon why the troops were not moleſted? No, it is entirely ſilent on that head. But ſuppoſe that the fact was really as it is repreſented; that the troops were not moleſted, nor that there was no convention or treaty whatever: I think I could account for it, on motives very different from thoſe aſſigned by the noble Earl in office. His Lordſhip aſſerts, that it was owing to the great abilities and military ſkill of the commander in chief. No man entertains a higher opinion of both than I do; but I think it may be eaſily accounted for, without attributing it either entirely to that, or to any backwardneſs in the Provincials. I remember a very great man who died fighting in the cauſe of America [Dr. Warren] in one of his publications, adviſes his countrymen to a defenſive war. May we not then

well ſuppoſe, if the matter cannot otherwiſe be accounted for, that General Waſhington, acting on the ſame principle, might wiſh that the royal army ſhould depart from Boſton without any further conſequences? If it has evacuated Boſton in the manner publiſhed by authority, and without any convention or ſtipulation, the conduct of the Provincials can only be accounted for on the principle I have now mentioned, that of acting on the defenſive. But, my Lords, I can hardly perſuade myſelf that this was the caſe: I am rather inclined to believe, that the troops were permitted to embark without moleſtation, in return for ſaving the town. Yet, my Lords, allowing all the Gazette has told you to be literally true, what a melancholy picture does it hold out? It is, indeed, my Lords, of a piece with all the reſt. It is like ſending Sir Peter Parker at a ſeaſon of the year in which it was a hundred to one that he ever reached the place of his deſtination. The event has proved the folly and ignorance of thoſe who planned this deſperate expedition. Firſt, that gentleman received orders to proceed. He was then countermanded, and again deſired to adhere to his firſt inſtructions. He at length ſailed, and the firſt account that we have received of the expedition is, that his fleet was diſperſed in a ſtorm; and that the commander, and the ſhattered remains of his ſquadron, have taken ſhelter in Antigua. Such, my Lords, has been the unhappy fate of an armament, on which ſuch great expectations were formed; and ſuch, I fear, will be the fate of the meaſure your Lordſhips have heard this day ſo highly extolled. This country, already burdened much beyond its abilities, is now on the eve of groaning under new taxes, for the purpoſe of carrying on this cruel and deſtructive war. Two arguments, both plauſible, but both equally ill-founded, were made uſe of by the miniſter in the other Houſe, on the principle and mode of taxing. It was ſaid, the kingdom was in a moſt flouriſhing ſtate, therefore was able to bear additional taxes. It was urged, ſince taxes were to be levied, they ought to be laid on the luxuries of life. On the firſt head, I ſhall ever continue to think the very reverſe, while the arguments of a late writer [Doctor Price] remain uncontradicted; nor ſhall I ever be perſuaded that ſtage-coaches, deeds, or news-papers, come within the deſcription of luxury, however confidently aſſerted. The definition of luxury I have been always taught to be ſimply this, the growth of foreign countries, articles alone of foreign importation; not the produce of this kingdom,

kingdom, or the effects of national industry. I do venture to assert, that the event will prove, that this country is already taxed to its full extent, and that every new tax you can devise, will interfere with some other, and only vary the mode of collecting the taxes, not increase the receipt. I must confess, it is perfectly new to me to be told, that deeds, leases, and indentures, are different species of luxury; if they are, I know of no transaction whatever that may not be brought within the same description. I believe the contrary requires no proof. A person in the law, whose business is far from being extensive, has assured me, that this tax will be very severely felt, and that it will make a difference of thirty pounds a year even to him. The noble Earl who has this day entertained your Lordships so ably, tells you, that General Howe has only *shifted his position*; that he is gone to the relief of Halifax, which is in a defenceless state. Why was that place, from which such wonders are to be atchieved, left in a defenceless state? or why trust its security to the precarious relief of succours sent thither at so dangerous and boisterous a season of the year? Even allowing the noble Earl's facts and arguments to be exactly as he has stated them, I am yet to learn the propriety of the phrase "shifting a position." From the little of military operations I have been acquainted with, I never understood an actual abandonment of an enterprize to be shifting a position. On the whole, my Lords, as I look upon the war itself to be cruel, unjust, oppressive, and vindictive, so I look upon the conduct of it hitherto to be contrary to every rule of sound policy, prudence, and common sense. I think it is full time therefore that your Lordships and the public should be made acquainted with the true state of our affairs in America; for which reason, as the first step towards it, I heartily concur in the motion made by the noble Duke.

The Earl of *Suffolk*. The noble Earl [Effingham] has expressed his astonishment, that no dispatches have been sent to General Howe for some months; and the only proof he has brought in favour of this assertion is no more, than that no dispatches have reached him; and that he was at the time of the evacuation of Boston totally ignorant of every thing which passed in Europe, since the meeting of Parliament. The noble Earl has likewise stated his fears for the army and fleet, under the command of General Howe and Admiral Shuldham, on account of the dangers of the sea, and uncertainty of the winds and waves. Now as in one instance

his Lordſhip has laid ſuch great ſtreſs on the difficulties to be encountered on the watery element, might not the noble Lord, by a parity of reaſon and ſimilarity of concluſion, have been led to ſuppoſe, that diſpatches had been ſent to General Howe, though none of them had reached him, previous to the date of this laſt letter? I obſerve too, that the noble Earl and the noble Duke who made the motion, have inſiſted much on the diſgrace of quitting Boſton, and repreſented it as productive of the moſt fatal conſequences. This, I confeſs, appears to me a little extraordinary, that the noble Lords ſhould ſo ſuddenly change their ſentiments. While we retained poſſeſſion of that town, it was diſgraceful to have a Britiſh army cooped up in it. It was called the grave of the Britiſh ſoldiery. It was repreſented as an inſignificant ſpot, of no conſequence, in which we were waſting our blood and treaſure to no purpoſe; but now, all of a ſudden, the evacuation of it is magnified into an actual loſs, and that loſs again repreſented no leſs diſgraceful to our arms, than deſtructive to the ſucceſs of our affairs in that country.

Lord Viſcount *Weymouth.* I ſhould not have troubled your Lordſhips upon the ſubject of this day's debate, were it not to prevent the noble Lords who have ſupported the preſent motion, from imputing the ſilence of adminiſtration to ſullenneſs, or any want of attention. It is purely to obviate ſuch an ill-founded imputation, that I riſe to declare in a few words my reaſons for giving a negative to a motion, which may be the means of laying any information before your Lordſhips, not fit for public inſpection. I am ſure the letters now deſired would certainly come within that deſcription, becauſe they contain a plan of the general's intended operations. The account in the Gazette, is, I think, fully ſufficient. It tells you, that the general formed the reſolution of quitting Boſton. It tells you, that he effected it without the loſs of a man; and that he brought off all his baggage, artillery, ammunition, ſtores, &c. The noble Earl has informed your Lordſhips very truly, that it has, for ſeveral months, been determined to alter the plan of operations, as the ſtate of affairs in that country have made ſuch an alteration neceſſary. The general has accordingly evacuated Boſton, notbecauſe it was not tenable, but becauſe the ſervice required his preſence elſewhere. To explain his reaſons, therefore, for embarking aboard the fleet, in order to proceed to Halifax, would be in fact diſcloſing what is the intereſt of this country moſt earneſtly to prevent. It would be diſcloſing no leſs than the whole

whole plan of his future operations. Before I ſit down, I cannot avoid obſerving, that the noble Duke and another noble Lord who ſpoke on the ſame ſide, have given the ſtrongeſt teſtimony in favour of the military capacity of the general, and the bravery and ſpirit of the troops. The noble Duke ſays, that the embarkation was effected with the cool indifference which attends the removal of a regiment in England from one place of country quarters to another. The other noble Lord, who was bred to the military profeſſion, [Lord Effingham] has expreſſed his wonder and aſtoniſhment, how it was poſſible for the general to bring off his troops without great loſs and ſlaughter on both ſides. I ſhall ſay no more, my Lords, but to repeat, that I think the account in the Gazette contains a true ſtate of the tranſaction; that a fuller could not be given, without revealing matter which we ſhould wiſh to conceal from the enemy; and that for this laſt reaſon alone I ſhall be againſt complying with the preſent motion.

Lord *Ravenſworth.* I am very unwilling to treſpaſs on your Lordſhips' time at this late hour of the day; but I cannot help riſing to expreſs my aſtoniſhment, at the language held by the ſervants of the crown on the preſent occaſion. Though I heartily diſapprove of the war, becauſe I look upon it to be founded in injuſtice, as depriving the people of America of both their liberty and property, as long as your Lordſhips continue to approve of it, nothing ſhould be omitted on the part of adminiſtration to render it ſucceſsful; and I allow there is nothing they ſhould more cautiouſly avoid, than giving any information which might tend to obſtruct or defeat the execution of their meaſures. It is for this reaſon, that I think the noble Duke's motion much too general and extenſive; and, if his Grace will permit me, I will propoſe an amendment, to confine the information now deſired merely to the evacuation of Boſton, and the meaſures preparatory to it. [Here his Lordſhip, to ſhew that the uniform uſage of office during the late reign, was to lay the whole diſpatch nakedly before the public as it was received, produced ſeveral London Gazettes, and read their dates, containing an account of the battles of Haſtenbeck and Fontenoy, Braddock's defeat, and the ſlaughter of the Britiſh troops at St. Cas.] In this laſt inſtance I recollect, the great man who then directed our public affairs was ſo careful to inform the nation of that fatal diſaſter, though he received the account late at night, in bed, he inſtantly roſe, and ordered it to be copied and ſent to the printer of the Gazette the ſame night, giving particular directions that a Gazette extraordinary ſhould be publiſhed. This was

the conduct of Lord Chatham, and of every preceding minister, ſince ever I can recollect any thing of public affairs. Whatever motives adminiſtration may have for ſuppreſſing the detail now called for, I cannot conjecture. I know it bears the moſt unfavourable appearance. I am reſolved, however, to put them to the teſt, by amending the motion, in ſuch a manner as will not leave it in their power to refuſe, without tacitly confeſſing that they wiſh to conceal what your Lordſhips and the public have an indubitable right to be acquainted with. After the motion, as it now ſtands, I ſhall therefore move the following amendment, "ſo far as do not relate to the intended operations of the preſent campaign."

The Earl of *Suffolk*. I muſt be againſt the amended motion, for the ſame reaſons I urged againſt complying with it in its original ſtate. The narrative relative to the evacuation of Boſton is ſo blended and mixed with the concerted plan of operations, that it is impoſſible to ſeparate them; ſo as to give the information deſired, without at the ſame time diſcloſing circumſtances not proper for the public.

The queſtion was then ſuddenly put, on which an altercation aroſe between the Lord Chancellor and the Duke of Bolton; the latter inſiſting, that the queſtion ought to have been put ſeparately on the motion and the amendment; and the former contending, that as the noble Duke conſented to the amendment, both now made but one queſtion.

The Duke of *Bolton*. Since the beginning of the preſent unhappy diſpute with America, I avoided to take any decided part on either ſide. I am far from approving of the cauſe of the war, much leſs of the manner in which it has been conducted; yet I have remained ſilent to this day, and have never voted once but in favour of the reſtraining bill, which I thought a very proper meaſure at the time. I cannot ſay that I approve entirely of the motion, either in its original or amended ſtate. It was at firſt much too general; nor does it at preſent come up entirely to my ideas: for I would have it ſpecially confined to the evacuation of Boſton, as there may be ſeveral matters and tranſactions that happened from the 1ſt to the 17th of March, beſides the mere evacuation, not proper to be divulged. I think, if the motion had been ſimply confined to that object, adminiſtration could not, with any colour of decency or propriety, have refuſed to ſatisfy the public. It would have been a ground of juſt ſuſpicion if they had. I cannot but lament the conduct of our naval affairs, ſo far as they reſpect America, particularly when your Lordſhips reflect, that the very mortar which drove the King's troops

troops out of Boſton, was permitted to fall into the hands of the Provincials through inattention and neglect. I do not ſee the noble Lord [Lord Townſhend] who preſides at the board of ordnance, this day in his place; but I am informed, that if he had complied with the application made to him, this important loſs would have never happened. I think the name of the tranſport was the Nancy, or the Peggy, the maſter of whom, as ſoon as he learned that this mortar was to be put aboard him, immediately waited on the maſter-general of the ordnance, [the noble Lord before alluded to] and acquainted him with the defenceleſs ſtate of his veſſel; adding, that if attacked only by an armed boat, he muſt ſubmit; to which the noble Lord returned no other anſwer, but referred him generally to the ſecretary of ſtate. This, among many others of a ſimilar nature, is the fulleſt proof how little attention was paid to this ſervice. I will not pretend to impute the fault to any particular perſon; but it is matter of melancholy conſideration, that through negligence or incapacity, more than one half of the implements of war ſent to that country ſhould be ſuffered to fall into the hands of the enemy; and what is ſtill worſe, that they ſhould be employed in the expulſion of the very troops for whoſe uſe they were intended.

The Earl of *Sandwich*. I entirely agree with the noble Earl and noble Viſcount, who have ſtated their reaſons, ſhewing the impropriety of complying with the preſent motion. I ſhould not have roſe, however, were it not to explain and anſwer a fact or two urged by a noble Lord on the other ſide [Lord Shelburne] and the noble Duke who ſpoke laſt. The noble Lord ſays, that contradictory orders were ſent to Sir Peter Parker; that he was delayed by thoſe orders; that he was ſent out at an improper ſeaſon; and that his fleet was blown away to the Weſt Indies. I do aſſure the noble Lord that he is totally miſinformed, as to ſome of his aſſertions. Sir Peter Parker received no contradictory orders, nor any orders but thoſe under which he ſailed. I had no hand in adviſing that expedition; nor am I at all anſwerable for the event. I am convinced it was wiſely and ably planned; but I am likewiſe convinced, that it will never anſwer the expectations firſt formed on it. As to the matter alluded to by the noble Duke, relative to the mortar which has fallen into the hands of the rebels, I have nothing to charge myſelf with. The tranſport aboard which it was ſhipped ſailed under convoy. She parted company, and again fell under convoy; and ſo a third time, till at length ſhe was blown on the coaſt of America, where ſhe was made a prize of by the rebels. Theſe are

accidents againſt which no human foreſight can provide; and which I am perſuaded the noble Duke is fully ſatisfied it is impoſſible to prevent.

The Duke of *Bolton*. The noble Earl has certainly miſunderſtood me. I never meant to ſay that the tranſport and mortar had been loſt for want of a convoy, becauſe I know the contrary. I ſpoke of a fact which cannot be contradicted. I ſpoke of the application made to the noble Lord, and the neglect of not attending to it. I ſay, that if the tranſport had been *armed*, that very mortar which drove the King's troops out of Boſton, would have been employed *for*, not *againſt* them. So it would have been in the caſe of the artillery, ammunition, &c. I remember well, that the tranſports during the late war were armed; and I appeal to the noble Earl, though the naval force ſerving on the American ſtation is in a proportion of nearly three to one to what it was laſt year, that not contented with this increaſed protection there, as well as convoys from hence, whether his Lordſhip has not taken care likewiſe that no tranſports are permitted to ſail to America, until they are firſt put in a ſtate of defence againſt the American cruizers. This the noble Earl has gained by experience; happy for both countries, perhaps, if this method had been adopted earlier.

The Houſe divided: contents 27, non-contents 64. Adjourned to the 13th.

May 13.

The Earl of *Effingham*. The motion I am now going to ſubmit to your Lordſhips, is the ſame I offered to your conſideration on Friday laſt, but which I then thought proper to withdraw, as ſeveral of your Lordſhips retired as ſoon as the debate was over. I would wiſh to be perfectly underſtood, that I by no means intend to point this motion at any particular perſon; on the contrary, there is nothing I ſhall be ſo ſolicitous to avoid, as even the appearance of ſuch a procedure. I think proper to inform your Lordſhips, before I proceed any further, that on account of the variety of objects which this motion will embrace, the number of papers that will be requiſite for a full inveſtigation of the ſubject, and the ſeſſion of Parliament being now haſtening to a concluſion, that it is not my intention to proceed farther in his buſineſs, than barely to procure the materials this ſeſſion, in order that your Lordſhips may have the proper information to enable you to enter into the enquiry early in the next.

Moſt of your Lordſhips are already acquainted with the purport of my intended motion: and I ſhould reſt here contented myſelf with ſaying no more on the ſubject, if I did not

not think I was in ſome meaſure called upon, to aſſign the motives which induced me to take the active part I have done in this affair. I do aſſure you, and I truſt your Lordſhips will believe me, that I ſhould never have taken up your time, if the object of the preſent enquiry was of a light or trivial conſideration. If it had been a petty malverſation in office, any neglect or inattention to duty, any blunder or miſtake ariſing from hurry and ignorance; had it been a little overſight in office, or even an extenſion of their powers for the purpoſe of letting officers and others have any of the little comforts of life, over and above what might be ſtrictly called *ſtores and proviſions*, your Lordſhips would never have heard a ſyllable of it from me. But, my Lords, when not only the act in queſtion has been evaded, miſinterpreted, and violated in the moſt groſs and flagrant manner; but that the law ſeems to have been enacted ſolely with a view to give miniſters an opportunity of breaking it, in order to transfer the trade of America from its wonted channels, from the reſpectable merchants of the city of London, and veſt it in the hands of a few obſcure mean perſons; I hope, in the diſcharge of my duty as a member of this Houſe, and the duty I owe the Public, to watch over the rights of every individual and claſs of men which compoſe the great community, that I ſhall ſtand excuſed in your Lordſhips' judgment. I look upon myſelf ſtill more ſtrongly juſtified on this ground, when I can add, from good information, that if this illicit commerce had not been timely diſcovered, and early checked, the trade of Great Britain would have been turned into as complete a monopoly as that carried on by the Eaſt-India Company, or any other Company; and that the exports in that way would amount to a value little ſhort of what they were previous to the paſſing of the act, when the trade was open and unreſtrained.

I do not wiſh to anticipate the information your Lordſhips will receive in the courſe of the enquiry; but as general aſſertions, however reſpectable, can paſs for no more than aſſertions, I hope your Lordſhips will permit me to ſtate a few facts, in order to convince you that there are full and ſufficient grounds for the preſent enquiry. The bill for prohibiting all the trade and commerce from this country with North America, your Lordſhips muſt remember, contained a clauſe to permit the exportation of ſtores and proviſions for the uſe of the troops ſerving at Boſton, and likewiſe an exception in favour of the provinces of Canada and Nova-Scotia, and a general liberty wherever the troops might be ſtationed in the courſe of the future operations of the war. This, in my

opinion,

opinion, my Lords, was a very proper and neceſſary clauſe; and if this clauſe had only been for the granting reaſonable indulgencies to the army, I do not think the matter would be worthy of your Lordſhips' ſerious attention; but when this indulgence was turned into a ſtate engine to ruin the fair trader; when under the covert of this clauſe, the trade to America was turned into a monopoly; when the very perſons who were the framers of the act inſerted the clauſe, with a view to defeat the profeſſed objects of the act itſelf, it is impoſſible but your Lordſhips muſt be deſirous to ſift this matter to the bottom, and remain aſtoniſhed at ſo daring a violation of the law. It is to convince your Lordſhips that I do not ſpeak without ſufficient authority, that I deſire the clerk may read the licences granted to two veſſels, with the ſchedules of the cargoes annexed. [Here the clerk read the ſchedules, by which it appeared, that linens, woollens, cutlery, mercery, millinery, haberdaſhery, groceries, and a variety of other articles not at all coming within the deſcription of ſtores or proviſions, had been permitted to be exported under the authority of thoſe licences.] I ſhall not expatiate, my Lords, on the matter which has now come out in evidence before you, becauſe there is one more which I ſhall move to have read, that will ſtill encreaſe your aſtoniſhment; and when your Lordſhips underſtand who were the perſons ſelected by adminiſtration, your Lordſhips will be no leſs ſurprized. One of them is a Mr. Anthony Merry, a man totally unknown in this branch of trade; a man, I dare venture to ſay, who never was in poſſeſſion of the hundredth part of the value of one of the cargoes he was ſo fortunate to procure a licence to export. But, my Lords, this man is not confined to the exportation of haberdaſhery and millinery goods; it was ſaid in the other Houſe that he had exceeded his powers, by buying any thing except ſtores and proviſions with the treaſury letter; it is neceſſary to obſerve that it is very extraordinary he ſhould ſtill be employed by government after ſuch an abuſe. He is likewiſe a contractor; for when his preſence was lately required in the Houſe of Commons, to give evidence touching this very buſineſs, it came out in proof, whether it was ſo or not I will not pretend to ſay, that he was down at Milford Haven, contracting for oxen for the uſe of the army and the navy. Another circumſtance relative to this Mr. A. Merry I ſhould have mentioned to your Lordſhips, becauſe it points out the conſequence of the man, the light he was held in as a trader, and the favour that was ſhewn him by people in power. It is, that when he went about among

among the tradeſmen and manufacturers to ſue for credit, he produced a letter from the ſecretary of the Treaſury, deſiring that he might have goods on credit to the amount of 3000l. The other perſon employed in this buſineſs was a Mr. Chriſtie, a Virginian, ſon, if I do not miſtake, to Col. Chriſtie, who acts as ſecond major-general in Canada. This gentleman, ſtill, if poſſible, leſs known than Mr. A. Merry, becauſe, as I am informed, he never before made an entry for America, is the other favoured perſon, who was ſelected to carry this jobbing ſcheme into execution. [Here his Lordſhip deſired that the licence granted to the Jameſon and Peggy *, with the ſchedule annexed, might be read, and a letter to the commiſſioners of Cuſtoms of February the 7th, ſigned G. Germaine, and the new licence granted on the 10th of April, in lieu of a former one granted in March, but afterwards recalled as being too general.] By this letter, my Lords, you will perceive that his Majeſty's name ſeems to have been unwarrantably made uſe of. You will likewiſe ſee, that the effect of calling in the firſt licence, though worded in more ſpecific terms, was authoriſing Mr. Merry to export goods to the amount of ſeveral thouſand pounds more than was permitted by the firſt licence; and your Lordſhips will perceive, that the manner Mr. Merry executed the contract for his Majeſty, was providing for him, inſtead of ſtores and proviſions, great ſtores of blankets, nails, ſheeting, gauze, pins, needles, ſilk, teas, Oſnaburgs, Ruſſia duck,

* The caſe of this ſhip is an inſtance of the method made uſe of to cover the manœuvre. Her firſt licence is granted on March 6th for a cargo to Boſton, the whole amounting to 16,600l. of all which only 750l. was in ſtrict conformity to the act; the remaining 15,850l. was partly in ſome indulgencies, as wine, tea, ſugar, &c.; but much the greateſt part is by no means to be included in the meaning of either *ſtores* or *proviſions*. Between the 15th of March and the 2d of April her licence is ſtopped, as being too general; on the 10th of April a new licence is granted, the words of which begin with, "Whereas by his Majeſty's pleaſure, ſignified to us by Lord George Germaine, of the 7th of February laſt, the ſhip Jameſon and Peggy is taken into his Majeſty's ſervice; we do therefore, &c." Then follows a ſchedule of her cargo, exactly word for word, like the former one of the 6th of March, with the addition at the end of ſix articles, to the amount of 10,000l. all contrary to the act; ſo that ſhe had new goods to the value of 26,600l. of which only 750l. were properly *ſtores* or *proviſions* within the meaning of the act.

blonds,

bloods, linen and woollen cloths, and in ſhort, every thing that had been formerly exported from this country to America. I am much obliged to your Lordſhips for your kind indulgence. I thought it neceſſary to ſay thus much, leſt you might imagine that I had taken up this matter upon common report. To convince you that I have not, I have juſt ſubmitted this ſlight ſketch of the tranſaction on which this motion is grounded. It is now evidently too late to take up ſuch a buſineſs, or proceed on the enquiry. The preparing the proper documents would require five or ſix days, and from the great variety of matter they muſt contain, and the number of witneſſes that muſt neceſſarily be examined, I ſhould rather wiſh that the papers called for were laid before the Houſe before your Lordſhips were prorogued, and that the whole may be taken into conſideration early in the next ſeſſions. His Lordſhip moved for laying before the Houſe an account of all licences granted by the boards of Treaſury and Admiralty for the exportation of proviſions and ſtores to North America ſince the prohibitory act.

The Earl of *Denbigh*. My Lords, if I thought there was the leaſt foundation for the preſent motion, there is not one of your Lordſhips would be more eager to go into the propoſed enquiry than myſelf; but the matter having already undergone the moſt minute examination in the other Houſe, and it having appeared that there was not the leaſt foundation for the general report ſpread concerning this buſineſs, I would be much better pleaſed that the noble Earl would defer the motion, as well as he had propoſed to defer the enquiry, till the next ſeſſion: and I will tell you, my Lords, my reaſon. This motion, however ill founded, certainly contains ſome degree of cenſure on thoſe who are ſuppoſed to have been concerned in it; the conſequence of which will be, that the papers being moved for, and the matter lying over till the next ſeſſions, it will get out in the world that the licences in queſtion have been granted on improper and corrupt motives. I ſhould therefore think it much more fair and parliamentary, as the matter, according to the noble Lord's own account, cannot be examined into before the Parliament riſes, to poſtpone the motion till it ſhall be accompanied or followed immediately by the enquiry. For my part, by what I can learn, I ſee no ſolid foundation for treating this matter in a ſerious light. It ſeems to carry ſomething with it peeviſh and malignant, which I ſhall be always ſolicitous, whenever it comes in my way, to diſcourage. Not that I ſuppoſe the noble Earl who has moved for the papers, was actuated by any ſuch motives. On the *contrary*, I am perſuaded that his Lordſhip has been miſinformed;

formed; and, on that misinformation, has been led to intereſt himſelf in a buſineſs which, if he was fully maſter of, I am inclined to think he would never have engaged in. I am convinced, from what has already come to my knowledge, that, inſtead of cenſure, the granting the licences will do adminiſtration the higheſt honour; nor will it do them leſs honour, that, immediately on their learning that an improper uſe had been made of them, they called them in. Beſides, my Lords, what does the complaint amount to? That a few articles, not directly coming within the deſcription of ſtores and proviſions, were permitted to be exported. There was, my Lords, ſome pins and needles, and three hundred weight of Scotch ſnuff ſent out; and there was a conſiderable quantity of tea. We will not ſuppoſe that ſome of theſe articles were ſent out for the uſe of the ſoldiery; but would your Lordſhips think it worth while to go into a ſolemn enquiry about matters of ſuch trifling conſideration? or would you wiſh to paſs a tacit, much leſs a direct cenſure, on thoſe who granted the licences, though, on a more minute examination, they would be found deſerving of thanks. I would not, however, be underſtood to have the leaſt inclination to put a ſtop to the enquiry. Nothing can be further from my intentions. If there was the leaſt foundation for the charge, none of your Lordſhips would be more deſirous to come at the truth, and puniſh the offenders. On the other hand, as I am perſuaded that there is nothing which has been done in the affair ſufficient to lay any juſt ground for the motion now made, I think it incumbent on thoſe who are pointed at to do every thing which may tend to juſtify themſelves, and prove their own innocence. The only reaſon which induced me to riſe was, to ſuggeſt to the noble Lord who made the motion, that there was nothing appeared on the examination in the other Houſe that was worthy of your Lordſhips' attention; and even though there ſhould, that it would be much more proper to defer the preſent motion till accompanied with the propoſed enquiry.

The Earl of *Sandwich*. Though I had no direct hand in granting the licences which are made the ſubject of the preſent motion, I look upon myſelf in ſome meaſure called upon to inform your Lordſhips what I know of the matter, as they were iſſued from the board at which I have the honour to preſide. Your Lordſhips will permit me, however, before I ſpeak to the queſtion, to ſay a word or two as to the propriety of making it at this time, juſt at the eve of the riſing

riſing of Parliament, as well as the mode in which the noble Earl has thought fit to introduce it. The noble Earl has told you, that the ſhortneſs of the time, conſidering the great maſs of matter to be enquired into, and the neceſſary delay the preparing the papers would take up, will not permit your Lordſhips to enter into any enquiry this ſeſſion. Now, my Lords, ſince this was the caſe, I ſhould imagine it would have been acting with greater fairneſs and much more propriety, if the noble Earl had deferred the motion, as well as the enquiry, till next ſeſſion; and I will tell your Lordſhips the reaſon: here a motion is made juſt before a prorogation, the charge it contains is, that an act of Parliament of the firſt and moſt general importance is broke through by the connivance, if not under the direct orders of adminiſtration; that the motives which led to it, were to eſtabliſh a monopoly to the detriment of the fair trader, and for the purpoſe of carrying into execution the moſt corrupt and infamous ſpecies of jobbing. By the motion now made, it will get out into world, that there muſt be at leaſt ſome foundation for this charge: the injury is in part completed; the charge is made, and adminiſtration muſt ſuffer under it, and be depreciated in the eyes of the public, till they have an opportunity, perhaps at the end of ſeveral months, of manifeſting their innocence. It is therefore on this ground, my Lords, that I think it would have been much more fair and parliamentary for the noble Earl to deſiſt from making his motion till thoſe involved in the accuſation had an immediate opportunity of making their defence. The other part of the noble Earl's conduct is, I think, much more exceptionable; not contented with ſtating the charge, which is fully contained in the terms of his motion, his Lordſhip has entered into a kind of proof of the ſeveral parts of it: this ſurely is prejudicing your Lordſhips; is miſleading the public. His Lordſhip has arraigned the conduct of adminiſtration, without hearing them, and has endeavoured to preclude the objects of enquiry by a pre-judgment as unfair as unprecedented. Thus, my Lords, the charge is made ſeveral months before it can be examined; and, what is ſtill more extraordinary, the facts are endeavoured to be ſubſtantiated, without a poſſibility of being able to ſet the tranſaction in its true light. I know this procedure not to be at all conſiſtent with the noble Earl's uſual candour, which would have been much better exerted if he had deferred the motion till it could have been accompanied with the enquiry;

enquiry; or, having made it, that he had refrained from entering into the merits till the nature and foundation of the charge had been firſt fully examined.

My Lords, the licences under which the ſeveral articles enumerated in the ſchedule now read were granted indiſcriminately to all who applied for them, without any preference or partiality whatever; and as indiſcriminately called in, when it was diſcovered that an improper uſe had been made of them; and the veſſels loaded under their authority, ſtopped from proceeding on their reſpecting voyages, and their carges ordered to be relanded. If any thing improper, therefore, was done, adminiſtration ſtand clear of the leaſt imputation; for, as ſoon as they found that any abuſe had been committed, they immediately put a ſtop to it. The firſt ſhip that ſailed was the charity ſhip, deſigned for the relief of wounded and maimed ſoldiers, their wives and families; and the widows and children of thoſe brave men who fell in the ſervice of their country. I am confident there is not one of your Lordſhips who would object to ſo humane and beneficent a plan; nor do I believe there is a perſon within or without theſe walls would condemn or arraign adminiſtration, though the clauſe had been ſtretched beyond its literal import, in order to relieve objects every way ſo well worthy of public compaſſion and relief. The next, I believe, was a ſtoreſhip, actually taken up in his Majeſty's ſervice, if I do not miſtake; and the third, on which your Lordſhips have heard ſuch great ſtreſs laid this day, was freighted with ſuch articles as was believed might be wanted for the uſe of the officers, their wives, and the inhabitants. This, my Lords, was the idea adminiſtration proceeded on. They never imagined they were tranſgreſſing the act by granting ſo proper an indulgence, under ſuch circumſtances. Nor would they ever have thought of making any enquiry, if ſuch large entries had not been made, and ſo many licences applied for. It was not the quality of the goods and merchandizes that firſt induced adminiſtration to recall the licences; it was the great quantities, and the repeated applications for more licences, that firſt created the alarm. The noble Earl has laid great ſtreſs on the exception in the act of Parliament reſpecting ſtores and proviſions; for my part, if the indulgence had not been abuſed in the manner now explained, I ſhould differ very widely on the intended and obvious meaning of thoſe words. I take proviſions to be any thing taken in at the mouth for the ſuſtenance and comfort

comfort of the body; ſuch as eatables, liquors, and drugs of all kinds. I take ſtores, in the liberal and true ſenſe, to mean clothing of every ſort and denomination. I do therefore repeat again, that if no more goods or merchandizes had been exported, or attempted to be exported, than what would have anſwered the conſumption of the garriſon of Boſton, and the inhabitants thereof, I think the licences granted would have been juſtifiable in every reſpect. Beſides, if we examine the words, they contain a very looſe and indefinite meaning; and I doubt much whether any ſpecies of merchandize you could mention might not be included in them. The whole clauſe taken together is ambiguous, and apparently wants that preciſion neceſſary to render it eaſily underſtood.

My Lords, whatever unfairneſs and want of candour there may be in preſſing the motion at this ſeaſon, and prejudging the merits, in order to injure thoſe againſt whom it is directed, I would be much better pleaſed, that the motion ſhould be complied with, than an opinion ſhould prevail without doors, that adminiſtration had the leaſt wiſh to ſtifle the enquiry. For my own part, I am the more eager, becauſe the licences were granted by a board, of which I am a member. I have, I do aſſure your Lordſhips, no reaſon to dread the enquiry. I am prepared to meet the ſtorm, whenever it ſhall ariſe. I can ſolemnly declare, that I have no particular knowledge of the perſons who obtained the licences. I am ſatisfied they were equally unconnected with the other members of adminiſtration, who, I have not a doubt, knew no more of them than myſelf. If there was a job, it was a job of individuals, who abuſed the indulgence intended by the clauſe, and employed it to their own particular purpoſes. I repeat once more, that the licences were indiſcriminately granted, and indiſcriminately called in; and to convince your Lordſhips that this is the true ſtate of the matter, though I heartily diſapprove of the manner this buſineſs has been brought forward, I beg that the noble Earl, and every other Lord who chuſes it, may be gratified with an inſpection of the papers, and every other document which may tend to ſet the whole in its true light, than which there is nothing I more ſincerely and earneſtly deſire.

The Earl of *Effingham*. The noble Earl who ſpoke laſt but one [Earl of Denbigh] has ſaid, that the treatment the ſame motion met with in the Houſe of Commons proved, that it was there thought to be futile. I think there were

two

two reaſons for the committee of that Houſe coming to no reſolution. One was, their thinking the motion futile; and the other was, a majority chuſing to ſuppreſs it. Your Lordſhips may think them equally probable, but from circumſtances which I know, I am inclined to attribute their ſilence to the latter motive. I differ very widely from the noble Earl, in thinking the objects of the preſent motion of no conſequence. I look upon them to be of very ſingular importance; nor can I ever be perſuaded that adminiſtration could have been ſo far miſled as to undeſignedly grant ſo dangerous a monopoly to a ſet of obſcure perſons, by mere chance, inattention, or accident; or to a ſet of mean, obſcure perſons, with whom they were totally *unacquainted* and *unconnected*.

The noble Earl who ſpoke laſt [Lord Sandwich] has ſuppoſed that the preſent motion was made purely to arraign the conduct of adminiſtration, and has accompanied this aſſertion with proofs drawn from the manner in which it has been brought forward. He has gone a ſtep farther; he has ſuppoſed that I wanted to miſlead your Lordſhips, by ſubſtantiating the charges before they were proved. I do aſſure you, my Lords, that nothing could be further from my intentions. When I made the motion, I thought it a duty I owed your Lordſhips to explain the grounds and motives on which it was moved. I believe ſuch a conduct is always uſual on ſimilar occaſions. I truſt, therefore, I ſhall ſtand clear, in your Lordſhips' judgment, from any imputation of unfairneſs, or any deſire to miſlead or prejudice thoſe who are ſuppoſed to have had any hand in this buſineſs. I imagined my conduct would have received a very different interpretation; for, were I to have given way to my own ſentiments on the occaſion, I think I could have laid open ſuch a ſcene of iniquitous jobbing as would have aſtoniſhed your Lordſhips to the laſt degree. The noble Earl has ſaid, the motion and the enquiry ſhould have gone together. I am ſure, if it be the ſenſe of the Houſe, I ſhall cheerfully acquieſce in it. I can have no wiſh to preſs the matter myſelf. I have ſubmitted it to your Lordſhips, and you will do with it as you think proper. I have ſtated the motion. I have opened the objects of it ſhortly. I am indifferent as to the event of it, becauſe I am perſuaded, that now the Houſe is in poſſeſſion of it, they will diſpoſe of it as it deſerves.

The noble Earl has ſaid, that the clauſe is ſo worded, it is difficult to underſtand it. I did not expect to hear ſuch an apology from that ſide of the Houſe, becauſe it was in the other Houſe a clauſe was offered to prevent the monopoly by Mr. Burke, who foretold what is now the conſequence. Some of your Lordſhips objected to the clauſe here, becauſe it was thought to be obſcure; but the anſwer on the part of adminiſtration was, "How is it poſſible that any thing can be plainer? all kinds of merchandize for the purpoſes of trade are to be prohibited. Stores and proviſions for the uſe of the army cannot be miſtaken; it is abſurd to ſuppoſe that the words can import, or be conſtrued to extend to, any thing but ſtores and proviſions." But, my Lords, it is plain that the clauſe was worded as it ſtands purely with a view to evade it; at leaſt the event has ſhewn that I would not incur the imputation of a willingneſs to arraign the conduct of adminiſtration, if I now contended that it bore every appearance of ſuch an intention. Nevertheleſs, as I then differed with the noble Earl about the terms in which the clauſe was worded, I am now equally ready to differ with him on the true conſtruction. The noble Earl ſays, it was not the quality of the goods exported by the authority of the licences that alarmed adminiſtration, but the quantities. Here again I differ from his Lordſhip; for it is the quality of the goods that particularly calls for your Lordſhips' animadverſion. The noble Earl has ſaid, he never doubted the quality of the goods being within the act of Parliament, but the quantity had cauſed him to ſtop the licences. What ſtruck me at firſt was, the improper quality of the goods, long before the quantity had amounted to any thing alarming. If the quality of the goods was not what conſtituted the breach of the act of Parliament, the quantity could never have been brought into queſtion; if it was legal to grant the licences, and to export under ſuch licences, I cannot perceive upon what ground of law or equity any perſons could take upon themſelves to ſay, "it is true the law allows you to export any kind of goods in any quantities you pleaſe, the law is defective. The framers of it only meant to permit the exportation of merchandizes to ſuch an amount, we will therefore ſupply that defect by limiting the quantities to what the law intended, but has not expreſſed."

The noble Earl has defended the licences on another ground, which he preſumes to come within the literal and obvious

obvious meaning of the clauſe, that is, ſo far as adminiſtration were concerned. His Lordſhip ſays, that proviſions mean all eatables, and ſtores every thing that a ſoldier or an officer can have occaſion for. I differ with him in both his definitions. I contend that there have been many things ſent out under the denomination of proviſions, for which his Majeſty never was, nor ever could be ſuppoſed to be, a contractor. In this claſs, I take it, the immenſe quantity of tea may be ranked, as well as ſeveral other articles which may be deemed mere luxuries, not at all calculated for the ſuſtenance of an army. Under the denomination of ſtores, the breach of the act is ſtill more palpable and groſs. Are the *millinery, mercery, and haberdaſhery goods ſent out*, to be deemed proper ſtores for an army? For my part, from all I could ever learn from reading and experience, I never knew nor heard of any ſpecies of ſtores calculated for the uſe of an army but *military ſtores*. Military ſtores expreſs all the *wants* of an army, as *artillery, and ordnance ſtores*, which are cannon, powder, ball, working-tools, waggons, &c.; *proviſions*, as meat, drink, corn, and hay, rum, or other ſpirits, &c.; *camp neceſſaries*, as tents, kettles, &c. Their *clothing* is ſent by certain perſons, and carried by the regiments themſelves, all but a trifling quantity for the officers. They are ſent from hence by contractors, or are provided by commiſſaries, and the private men put under ſtoppages for the repayment; but even allowing that caps, ribbons, gauze, ſilk, woollen cloths, and blonds, may be conſtrued to be ſtores within the proviſion of the clauſe, will the noble Earl riſe and ſeriouſly tell me, that the immenſe quantities of Ruſſia duck, ſent out under thoſe licences, were intended for the army; or that the nails, blankets, ſheets, &c. which are all ſupplied in another manner, and through different channels, were provided for the ſame purpoſe? I day ſay his Lordſhip will not; he knows better. He needs only conſult the commiſſaries of the army, and if he ſhould ſtill retain any doubts, they will ſoon ſatisfy him of the contrary. I am confident there was more duck exported under thoſe licences than would make breeches for an army of Dutchmen ten times more numerous than that ſtationed at Boſton, though every man wore ten pair. On the whole, my Lords, though I think the preſent motion extremely important, and the propoſed enquiry equally neceſſary, the mode and time entirely depend on your Lordſhips' judgment. All I have to add is, that I

think the whole tranſaction bears the ſtrongeſt appearance of a total perverſion of the act, for the purpoſe of carrying into execution a ſyſtem of the moſt iniquitous and corrupt jobbing; and that whenever your Lordſhips ſhall think proper to enter into the enquiry, you will find it well worthy your moſt ſerious conſideration.

Lord Effingham anſwered to Lord Sandwich's charge f unfairneſs; he thought to have obtained credit for great candour with his Lordſhip, as he had omitted purpoſely to ſay any thing of the ſhip City of London, which had ſailed, under licence, before the illegal practices had been complained of to government; and had confined himſelf to ſuch as had been permitted to ſail, notwithſtanding.

The Lord *Lyttleton*. Nothing that I have heard this day has induced me to change the opinion I formed on being preſent on Thurſday night in the other Houſe. Every proof of any conſequence now moved for was laid before that Houſe, and fully inveſtigated. Several witneſſes were examined, and a variety of arguments raiſed on the nature of the evidence. But either the witneſs was trifling in itſelf, or in any inſtance where the act was departed from, it evidently appeared that adminiſtration were impoſed on, and that the jobs, ſuch as they were, were the jobs of a few unconnected individuals, neither connected with each other nor adminiſtration. The miniſter ſat out the whole night. He anſwered every plauſible objection that was ſtarted. He examined cloſely ſuch of the perſons as ſeemed to come into the buſineſs with alacrity, on purpoſe to give it a conſequence it did not deſerve; and on the fulleſt and moſt impartial inveſtigation, after ſitting on the enquiry till five o'clock in the morning, the Houſe diſmiſſed the matter, as equally nugatory, unneceſſary, and ill founded.

The noble Earl has repreſented the exportation under the licences as immenſe. I preſume the noble Earl's information to be ſuch as he has repreſented it. I know his Lordſhip's candour too well to ſuppoſe that he would wiſh to miſrepreſent or exaggerate; but the fact is totally otherwiſe; for out of the nine licences that were granted three only ſailed, one of which was the hoſpital ſhip, that was allowed to have ſailed ſtrictly in conformity to the act, and the cargoes of the other ſix were relanded. The noble Earl has repreſented the quantities of goods exported as being very conſiderable; but I would deſire his Lordſhip to recollect, that entries

entries outwards are always very inaccurately made; that the entry is generally one-third more than the goods ſhipped; and the reaſon is obvious, becauſe when the merchant makes his entry, he always takes a precaution to do it in ſuch a manner as to reſerve to himſelf the power of ſhipping more goods, ſhould an opportunity ſerve On the whole, my Lords, from what has come to my own knowledge of what paſſed when I was preſent in the Houſe of Commons; when I reflect on the effect of the enquiry there; when your Lordſhips muſt be ſatisfied that it was only the job of a few intereſted individuals, and that adminiſtration, as ſoon as they diſcovered they were impoſed on, immediately recalled the licences; when all thoſe circumſtances are maturely weighed, and properly conſidered, I am not only inclined to think, but I am firmly perſuaded, that you will be of opinion, the preſent motion is totally unneceſſary, particularly as it may be ſuppoſed to convey ſome degree of undeſerved cenſure.

The Duke of *Mancheſter*. I hold a place in the cuſtoms, which I derive from my anceſtors; it is true the office is executed by a deputy, but nevertheleſs, I am not entirely unmindful that it is my duty to ſee it faithfully executed. Some time ſince, one of the perſons whom I employ in this ſervice, applied to me to know in what manner he ſhould act. He ſaid, that licences had been granted for the exportation of goods to America: that he underſtood there was an act paſſed ſome weeks before, for prohibiting all trade and intercourſe with that country; that he accordingly procured the act, and on peruſing it, was of opinion that the licences were not legal; that as the cockets were to paſs through his office, he did not know how to conduct himſelf. On this information I deſired him to apply to the commiſſioners of the cuſtoms, and take their directions. In a few days after he applied again to me, told me he had been with the commiſſioners of the cuſtoms, but they confeſſed their ignorance of the matter, and told him, they were not ſufficiently informed to be able to direct him. I mention this tranſaction, my Lords, only to point out to you the difficulty the very commiſſioners themſelves lay under, in complying with the licences in queſtion, and, to ſhew that the conduct of the admiralty board, the difficulties of complying with their requiſitions, the doubts that were ſtarted, and the ſeveral circumſtances of ſuperſeding the clauſe for permitting the exportation of ſtores and proviſions, were matters of

doubt

doubt and conſideration, long before they came to be mentioned, or agitated in either Houſe of Parliament. Your Lordſhips will excuſe me, if I trouble you with a word or two, on ſomething which has fallen in the courſe of the preſent debate. I mean what has been urged by the noble Lord who ſpoke laſt, to induce you to ſtop ſhort in the preſent enquiry, becauſe the matter has been already conſidered and diſmiſſed in the other Houſe. I think it extremely diſorderly to mention any thing which has happened in the other Houſe in a debate in this, particularly, when it is mentioned with an intention of influencing your opinion, or determinations. But, my Lords, I was preſent at what paſſed in the other Houſe, as well as the noble Lord; and his Lordſhip will permit me to ſay, that the matter was not fully inveſtigated there. Several of the witneſſes were out of the way, or kept out of the way. This Mr. Anthony Merry in particular was not to be found. The papers called for were not ready, or were purpoſely held back; and even after all, imperfect as the information was, the enquiry was not diſmiſſed, after being *fully heard*. The gentlemen who ſet it on foot, for the reaſons now mentioned, were deſirous to poſtpone it for a few days, in order to gain ſufficient information to proceed on; but when they moved the queſtion of adjournment, they were out-voted; and at length, juſt as a witneſs was called, the miniſter moved the previous queſtion, or, which was the ſame thing, the diſſolution of the committee, by moving that the chairman do now leave the chair; ſo that your Lordſhips will ſee, that the matter was *not* inveſtigated, but *ſmothered* in the other Houſe; and that if the miniſter had a mind to have the matter fairly ſifted to the bottom, he would have conſented to the queſtion of adjournment, and not have ſuppreſſed all future enquiry in the firſt inſtance. I beg your Lordſhips' indulgence, I know by correcting diſorder, I have myſelf been diſorderly; but I hope your Lordſhips are ſatisfied, that nothing could have prevailed on me to depart from the uniform uſage of Parliament, but ſtating faithfully the proceeding of the other Houſe, which your Lordſhips permitted to be made a ground of debate in this.

The Marquis of *Rockingham*. I ſhould not have troubled your Lordſhips on the preſent occaſion, if it had not been for ſomething which fell from the noble Lord, [Lord Lyttleton] who mentioned his being preſent in the other Houſe. He ſays, the reſult of the enquiry there was, that it appeared

Act to give a reward for diſcovering a north paſſage, for veſſels between the Atlantic and Pacific Oceans.
——— making perpetual the importation of proviſions and cattle from Ireland.
——— to prevent deer ſtealing.
——— for laying additional duties on carriages, ſtamps, cards, and newſpapers.
——— for exporting wheat to the Weſt Indies, and biſcuit and peaſe to Newfoundland.
——— for inſolvent debtors.
——— for granting a bounty upon the importation of flax-ſeed from Holland into Ireland.
——— to change the puniſhment of offenders from tranſportation to hard labour.
——— to enable the King to raiſe one million.
——— for the encouragement of the whale-fiſhery.
——— for applying a ſum out of the ſinking fund.
——— for allowing the drawback on muſlins and callicoes imported by the Eaſt-India company.

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